

Memorandum 2008-50

**Nonsubstantive Reorganization of Deadly Weapon Statutes:
Cumulative Draft of New Part 6 of the Penal Code**

In its nonsubstantive study of the laws governing control of deadly weapons, the Commission is in the process of preparing a tentative recommendation. The plan is to reorganize most of the material in Title 2 of Part 4 of the Penal Code (Penal Code §§ 12000-12809) in a user-friendly manner in a new Part 6 of the Penal Code, without making any substantive changes. For an outline of new Part 6, see Memorandum 2008-48.

At previous meetings, the Commission has considered drafts of the following material for new Part 6:

- Title 1. Preliminary Provisions
- Title 2. Weapons Generally
- Title 3. Weapons and Devices Other Than Firearms
- Title 4. Firearms (Divisions 1-5 only)

Attached is a cumulative draft of that material.

A draft of Division 6 of Title 4, relating to sale, lease, or transfer of firearms, is attached to Memorandum 2008-49, for consideration at the October meeting. The remainder of Title 4 has not yet been drafted.

Commissioners and other interested persons should **review the attached cumulative draft and determine whether any aspect of it needs to be changed before being incorporated into a tentative recommendation.** A few matters relating to the draft are discussed below.

CONTENT OF THE CUMULATIVE DRAFT

The attached cumulative draft does not incorporate legislation enacted in 2008, except for a measure enacted on an urgency basis (2008 Cal. Stat. ch. 111, § 1). The staff will incorporate other 2008 legislation later in this study.

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

In the attached draft, the staff has:

- Made some corrections and revised numerous cross-references to conform to the numbering of new Part 6. Some cross-references have not yet been conformed, usually because the corresponding new provision has not yet been drafted. For drafting convenience in conforming cross-references, we have added two new provisions. See proposed Sections 16575, 16580. For discussion of the process of conforming cross-references, see Memorandum 2008-39, pp. 2-5.
- Made revisions relating to the definition of “infrequent,” which has been placed in proposed Section 16730. For an explanation of those revisions, see the Staff Note on proposed Section 16730 in the attachment to Memorandum 2008-49.
- Made revisions relating to the definitions of “dealer,” “licensee,” and “person licensed pursuant to [Section 12071].” See proposed Sections 16440, 16820, 16890. For an explanation of those revisions, see the Staff Note on proposed Section 16440 in the attachment to Memorandum 2008-49.

We have also (1) added an uncodified provision that would establish a delayed operative date for the proposed legislation, and (2) added several provisions that would be placed in “Division 1. General Provisions” of “Title 1. Preliminary Provisions.” Those two points are explained in the remainder of this memorandum.

Delayed Operative Date

At the end of the attached draft is an uncodified provision that states:

SEC. _____. This act becomes operative on _____.

The staff included this provision because it seems likely that a delayed operative date would be advisable.

Normally, legislation becomes operative on January 1 of the year following enactment of the legislation. Cal. Const. art. IV, § 8(c)(1); Gov’t Code § 9600(a). Sometimes, however, the operative date is delayed to facilitate the transition to the new legislation, or for some other reason.

For instance, a nonsubstantive reorganization of the Civil Discovery Act was enacted in 2004 on recommendation of the Commission. Instead of becoming operative on January 1, 2005, the legislation did not become operative until July 1, 2005. See 2004 Cal. Stat. ch. 182, § 64. The six-month delay gave courts and

attorneys time to prepare for the reform, such as by revising forms to reflect the new numbering scheme.

The staff does not know what length of delay, if any, would be appropriate for the deadly weapons legislation being prepared by the Commission.

Comments on this point would be helpful.

For the time being, however, it is not necessary to settle that matter. The Commission can simply leave the date in the uncodified provision blank and fill it in later.

General Provisions

Title 1 of new Part 6 is entitled “Preliminary Provisions.” It consists of two divisions: “Division 1. General Provisions” and “Division 2. Definitions.”

Until now, Division 1 has been left empty, reserved for future use if needed. In preparing material for the October meeting, however, the staff realized that it would be helpful to place a number of provisions in that division.

Each of those provisions is discussed below.

Title of Act

First, **there should be a section that would establish a convenient means of referring to the legislation recodifying the deadly weapon provisions.** In the attached draft, proposed Section 16000 would state:

§ 16000. Deadly Weapons Recodification Act of 2012

16000. This act recodifies the provisions of former Title 2 (commencing with Section 12000) of Part 4, which was entitled “Control of Deadly Weapons.” The act shall be known and may be cited as the “Deadly Weapons Recodification Act of 2012.”

Comment. Section 16000 provides a convenient means of referring to the recodification of former Sections 12000-12809. For background, see *Nonsubstantive Reorganization of Deadly Weapon Statutes*, __ Cal. L. Revision Comm’n Reports __ (2009).

The staff selected the name “Deadly Weapons Recodification Act of 2012” on the assumption that the Commission’s proposal will not be introduced until 2011 and will not be enacted until 2012. Although the Commission’s report is due on July 1, 2009, it may be unwise to introduce the proposal in 2010, which is the second year of a two-year legislative session. The proposed legislation will be lengthy and the Legislature might not be able to adequately review it a single

year. Delaying introduction of the bill until 2011 would give the Legislature two years to evaluate it, instead of only one.

Of course, there might be pressure to introduce the bill earlier, so that the recodification would take place earlier. If so, it would be a simple matter to adjust the date in proposed Section 16000 and other provisions referring to the Deadly Weapons Recodification Act.

Later in this study, the Commission should consider what would be the best time to introduce the proposed legislation. There is no need to make a decision on that point now. But comments on it would be welcome at any time.

Nonsubstantive Reform

Second, **the staff recommends that “Division 1. General Provisions” include a provision emphasizing the nonsubstantive nature of the recodification.** We previously recommended that this be done in an uncoded provision, and the Commission tentatively approved such a provision. See Memorandum 2008-39, pp. 2, 5; Minutes (Sept. 2008), p. 7. On reflection, however, the staff has concluded that a code section would be preferable to an uncoded provision, because it is less likely to be overlooked.

Thus, proposed Section 16005 in the attached draft would state:

§ 16005. Nonsubstantive reform

16005. Nothing in the Deadly Weapons Recodification Act of 2012 is intended to substantively change the law relating to deadly weapons. The act is intended to be entirely nonsubstantive in effect. Every provision of the act, including, without limitation, every cross-reference in every provision of the act, shall be interpreted consistent with the nonsubstantive intent of the act.

Comment. Section 16005 makes clear that the Deadly Weapons Recodification Act of 2012 has no substantive impact. The act is intended solely to make the provisions governing control of deadly weapons more user-friendly. For background, see *Nonsubstantive Reorganization of Deadly Weapon Statutes*, __ Cal. L. Revision Comm’n Reports __ (2009).

This is essentially the same as the provision that the Commission previously approved.

Continuation of Existing Law

Third, **“Division 1. General Provisions”** should include a provision with standard language on continuation of existing law. In the attached draft, proposed Section 16010 would state:

§ 16010. Continuation of existing law

16010. (a) A provision of this part, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be considered as a restatement and continuation thereof and not as a new enactment.

(b) A reference in a statute to a previously existing provision that is restated and continued in this part shall, unless a contrary intent appears, be deemed a reference to the restatement and continuation.

(c) A reference in a statute to a provision of this part that is substantially the same as a previously existing provision shall, unless a contrary intent appears, be deemed to include a reference to the previously existing provision.

Comment. Subdivision (a) of Section 16010 is similar to Section 5, which is a standard provision found in many codes. See, e.g., Bus. & Prof. Code § 2; Corp. Code § 2; Fam. Code § 2; Prob. Code § 2(a); Veh. Code § 2.

Subdivision (b) is drawn from Government Code Section 9604.

Subdivision (c) is drawn from Family Code Section 2. For a specific illustration of the general principle stated in this subdivision, see Section 16015 (determining existence of prior conviction).

Prior Convictions

Fourth, the staff recommends that **“Division 1. General Provisions”** include a provision relating to prior convictions. For some criminal offenses, the severity of punishment depends on whether there has been a prior conviction under a particular statute. If that statute is recodified without substantive change, the recodification should have no impact on the punishment. In other words, it should not matter whether a conviction was under the old version of the statute, or under the new version of the statute. Either way, the conviction should count as a prior conviction for purposes of determining punishment.

In the attached draft, proposed Section 16015 would address this matter:

§ 16015. Determining existence of prior conviction

16015. If a previously existing provision is restated and continued in this part, a conviction under that previously existing provision shall, unless a contrary intent appears, be treated as a

conviction under the restatement and continuation of that provision.

Comment. Section 16015 makes clear that in determining the existence of a prior conviction that affects the severity of punishment for an offense, a conviction under a former provision that has been restated and continued in this part counts as a prior conviction under the corresponding new provision.

For example, Section 20170 prohibits open display of an imitation firearm in a public place. A first violation of that provision is punishable by a \$100 fine, and a second violation is punishable by a \$300 fine. See Section 20180. In determining whether to impose a \$100 fine or a \$300 fine, a violation of the predecessor of Section 20170 (former Section 12256(a)) counts as a prior violation of Section 20170.

To alert persons to this provision, the staff has revised a number of Comments to refer to it. See the Comments to proposed Sections 18735, 20160, 20180, 22610, 23645, 23670, 25400, and 25850 in the attached draft. See also the Comments to proposed Sections 27245, 27350, and 27590 in the draft attached to Memorandum 2008-49. We encourage input on whether there are any other Comments where such a reference would be helpful.

Constitutionality and Judicial Decisions

Finally, the staff now believes that **“Division 1. General Provisions” is the place to make clear that in recodifying the deadly weapon statutes, the Legislature has not passed judgment on the constitutionality of any provision affected by the recodification, or the correctness of any such provision.** We previously recommended that the Commission address that point in an uncoded provision. The Commission approved the idea in concept, but crafting specific language was deferred. See Memorandum 2007-15, pp. 6-7; Minutes (April 2007), p. 11; Minutes (April 2008), pp. 5-6; Memorandum 2008-42, p. 3. To help ensure that such language is not overlooked, the staff now thinks it should be codified.

Further, **we would address the point in two provisions rather than one, as shown below:**

§ 16020. Judicial decision interpreting former law

16020. (a) A judicial decision interpreting a previously existing provision is relevant in interpreting a provision of this part that restates and continues that previously existing provision.

(b) However, in enacting the Deadly Weapons Recodification Act of 2012, the Legislature has not evaluated the correctness of any judicial decision interpreting a provision affected by the act.

(c) The Deadly Weapons Recodification Act of 2012 is not intended to, and does not, reflect any assessment of any judicial decision interpreting any provision affected by the act.

Comment. Subdivision (a) of Section 16020 makes clear that case law construing a predecessor provision is relevant in construing its successor in this part.

Subdivisions (b) and (c) make clear that in recodifying former Sections 12000-12809, the Legislature has not taken any position on any case interpreting any of those provisions.

§ 16025. Constitutionality

16025. (a) A judicial decision determining the constitutionality of a previously existing provision is relevant in determining the constitutionality of a provision of this part that restates and continues that previously existing provision.

(b) However, in enacting the Deadly Weapons Recodification Act of 2012, the Legislature has not evaluated the constitutionality of any provision affected by the act, or the correctness of any judicial decision determining the constitutionality of any provision affected by the act.

(c) The Deadly Weapons Recodification Act of 2012 is not intended to, and does not, reflect any determination of the constitutionality of any provision affected by the act.

Comment. Subdivision (a) of Section 16025 makes clear that case law determining the constitutionality of a predecessor provision is relevant in determining the constitutionality of its successor in this part.

Subdivisions (b) and (c) make clear that in recodifying former Sections 12000-12809, the Legislature has not taken any position on the constitutionality of any of those provisions.

We believe this would be more clear and straightforward than trying to cover everything in a single provision.

We encourage Commissioners and other interested persons to share their views on this matter, the attached draft, and any other aspect of this study.

Respectfully submitted,

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PROPOSED LEGISLATION

Staff Note. This is a work in progress. The material shown below may be changed. For an outline of new Part 6 of the Penal Code, see Memorandum 2008-38.

Except as noted in the accompanying memorandum, the material in this draft has been previously presented and approved by the Commission for inclusion in a tentative recommendation. In some provisions, the staff has made typographical or other minor corrections, as authorized in the Commission's handbook (Rule 2.7.4). In many places, a cross-reference to an existing provision has been replaced with a cross-reference to the corresponding new provision.

Some of the provisions in this draft contain a bracketed cross-reference to one or more existing code sections. As new Part 6 of the Penal Code is drafted, these cross-references will be conformed to the new numbering scheme.

Blanks are used to indicate references to sections that have not yet been drafted (e.g., "Section ____").

All of the proposed provisions would be located in the Penal Code. All references are to the Penal Code unless otherwise noted.

Penal Code § 830.95 (added). Picketing in uniform of peace officer

830.95. (a) Any person who wears the uniform of a peace officer while engaged in picketing, or other informational activities in a public place relating to a concerted refusal to work, is guilty of a misdemeanor, whether or not the person is a peace officer.

(b) This section shall not be construed to authorize or ratify any picketing or other informational activities not otherwise authorized by law.

Comment. Subdivision (a) of Section 830.95 continues former Section 12590(a)(4) without substantive change.

With respect to picketing in the uniform of a peace officer, subdivision (b) continues former Section 12590(b) without substantive change. See also Section 17510(b), which continues former Section 12590(b) with respect to certain other acts.

Penal Code §§ 16000-____ (added). Control of deadly weapons

SEC. ____ . Part 6 (commencing with Section 16000) is added to the Penal Code, to read:

PART 6. CONTROL OF DEADLY WEAPONS

TITLE 1. PRELIMINARY PROVISIONS


DIVISION 1. GENERAL PROVISIONS

§ 16000. Deadly Weapons Recodification Act of 2012

16000. This act recodifies the provisions of former Title 2 (commencing with Section 12000) of Part 4, which was entitled "Control of Deadly Weapons." The

1 act shall be known and may be cited as the “Deadly Weapons Recodification Act
2 of 2012.”

3 **Comment.** Section 16000 provides a convenient means of referring to the recodification of
4 former Sections 12000-12809. For background, see *Nonsubstantive Reorganization of Deadly*
5 *Weapon Statutes*, __ Cal. L. Revision Comm’n Reports __ (2009).

6  **Staff Note.** The Commission’s report on nonsubstantive reorganization of the deadly
7 weapons statutes is due on July 1, 2009. Because the proposed legislation will be lengthy, it may
8 be unwise to introduce it in 2010, which is the second year of a two-year legislative session.

9 In drafting proposed Section 16000, the staff has assumed that the proposed legislation will not
10 be introduced until 2011, and will not be enacted until 2012. If those assumptions are incorrect,
11 the date in proposed Section 16000 and other provisions referring to the Deadly Weapons
12 Recodification Act will require adjustment.

13 Later in this study, the Commission should consider what would be the best time to introduce
14 its proposed legislation.

15 § 16005. Nonsubstantive reform

16 16005. Nothing in the Deadly Weapons Recodification Act of 2012 is intended
17 to substantively change the law relating to deadly weapons. The act is intended to
18 be entirely nonsubstantive in effect. Every provision of the act, including, without
19 limitation, every cross-reference in every provision of the act, shall be interpreted
20 consistent with the nonsubstantive intent of the act.

21 **Comment.** Section 16005 makes clear that the Deadly Weapons Recodification Act of 2012
22 has no substantive impact. The act is intended solely to make the provisions governing control of
23 deadly weapons more user-friendly. For background, see *Nonsubstantive Reorganization of*
24 *Deadly Weapon Statutes*, __ Cal. L. Revision Comm’n Reports __ (2009).

25 § 16010. Continuation of existing law

26 16010. (a) A provision of this part, insofar as it is substantially the same as a
27 previously existing provision relating to the same subject matter, shall be
28 considered as a restatement and continuation thereof and not as a new enactment.

29 (b) A reference in a statute to a previously existing provision that is restated and
30 continued in this part shall, unless a contrary intent appears, be deemed a reference
31 to the restatement and continuation.

32 (c) A reference in a statute to a provision of this part that is substantially the
33 same as a previously existing provision shall, unless a contrary intent appears, be
34 deemed to include a reference to the previously existing provision.

35 **Comment.** Subdivision (a) of Section 16010 is similar to Section 5, which is a standard
36 provision found in many codes. See, e.g., Bus. & Prof. Code § 2; Corp. Code § 2; Fam. Code § 2;
37 Prob. Code § 2(a); Veh. Code § 2.

38 Subdivision (b) is drawn from Government Code Section 9604.

39 Subdivision (c) is drawn from Family Code Section 2. For a specific illustration of the general
40 principle stated in this subdivision, see Section 16015 (determining existence of prior conviction).

41 § 16015. Determining existence of prior conviction

42 16015. If a previously existing provision is restated and continued in this part, a
43 conviction under that previously existing provision shall, unless a contrary intent

1 appears, be treated as a prior conviction under the restatement and continuation of
2 that provision.

3 **Comment.** Section 16015 makes clear that in determining the existence of a prior conviction
4 that affects the severity of punishment for an offense, a conviction under a former provision that
5 has been restated and continued in this part counts as a prior conviction under the corresponding
6 new provision.

7 For example, Section 20170 prohibits open display of an imitation firearm in a public place. A
8 first violation of that provision is punishable by a \$100 fine, and a second violation is punishable
9 by a \$300 fine. See Section 20180. In determining whether to impose a \$100 fine or a \$300 fine, a
10 violation of the predecessor of Section 20170 (former Section 12256(a)) counts as a prior
11 violation of Section 20170.

12 § 16020. Judicial decision interpreting former law

13 16020. (a) A judicial decision interpreting a previously existing provision is
14 relevant in interpreting a provision of this part that restates and continues that
15 previously existing provision.

16 (b) However, in enacting the Deadly Weapons Recodification Act of 2012, the
17 Legislature has not evaluated the correctness of any judicial decision interpreting a
18 provision affected by the act.

19 (c) The Deadly Weapons Recodification Act of 2012 is not intended to, and does
20 not, reflect any assessment of any judicial decision interpreting any provision
21 affected by the act.

22 **Comment.** Subdivision (a) of Section 16020 makes clear that case law construing a
23 predecessor provision is relevant in construing its successor in this part.

24 Subdivisions (b) and (c) make clear that in recodifying former Sections 12000-12809, the
25 Legislature has not taken any position on any case interpreting any of those provisions.

26 § 16025. Constitutionality

27 16025. (a) A judicial decision determining the constitutionality of a previously
28 existing provision is relevant in determining the constitutionality of a provision of
29 this part that restates and continues that previously existing provision.

30 (b) However, in enacting the Deadly Weapons Recodification Act of 2012, the
31 Legislature has not evaluated the constitutionality of any provision affected by the
32 act, or the correctness of any judicial decision determining the constitutionality of
33 any provision affected by the act.

34 (c) The Deadly Weapons Recodification Act of 2012 is not intended to, and does
35 not, reflect any determination of the constitutionality of any provision affected by
36 the act.

37 **Comment.** Subdivision (a) of Section 16025 makes clear that case law determining the
38 constitutionality of a predecessor provision is relevant in determining the constitutionality of its
39 successor in this part.

40 Subdivisions (b) and (c) make clear that in recodifying former Sections 12000-12809, the
41 Legislature has not taken any position on the constitutionality of any of those provisions.

DIVISION 2. DEFINITIONS

§ 16100. “.50 BMG cartridge”

16100. As used in this part, “.50 BMG cartridge” means a cartridge that is designed and intended to be fired from a center fire rifle and that meets all of the following criteria:

(a) It has an overall length of 5.54 inches from the base to the tip of the bullet.

(b) The bullet diameter for the cartridge is from .510 to, and including, .511 inch.

(c) The case base diameter for the cartridge is from .800 inch to, and including, .804 inch.

(d) The cartridge case length is 3.91 inches.

Comment. Section 16100 continues former Section 12278(b) without substantive change.

§ 16110. “.50 BMG rifle”

16110. (a) As used in this part, “.50 BMG rifle” means a center fire rifle that can fire a .50 BMG cartridge and is not already an assault weapon or a machinegun.

(b) A “.50 BMG rifle” does not include any antique firearm, nor any curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

Comment. Subdivision (a) of Section 16110 continues former Section 12278(a) without substantive change. See Sections 16880 (“machinegun”), _____ (“assault weapon”), _____ (further clarification of “assault weapon”), _____ (exemptions from definition of “assault weapon”).

Subdivision (b) continues former Section 12278(c) without substantive change. See Section 16170 (“antique firearm”).

§ 16120. “Abuse”

16120. As used in this part, “abuse” means any of the following:

(a) Intentionally or recklessly to cause or attempt to cause bodily injury.

(b) Sexual assault.

(c) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.

(d) To molest, attack, strike, stalk, destroy personal property, or violate the terms of a domestic violence protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code.

Comment. Section 16120 continues former Section 12028.5(a)(1) without substantive change.

§ 16130. “Agent”

16130. As used in Section 26915, “agent” means an employee of the licensee.

Comment. Section 16130 continues former Section 12071(b)(20)(G)(i) without substantive change.

1 **§ 16140. “Air gauge knife”**

2 16140. As used in this part, “air gauge knife” means a device that appears to be
3 an air gauge but has concealed within it a pointed, metallic shaft that is designed to
4 be a stabbing instrument which is exposed by mechanical action or gravity which
5 locks into place when extended.

6 **Comment.** Section 16140 continues former Section 12020(c)(18) without substantive change.

7 **§ 16150. “Ammunition”**

8 16150. (a) As used in [Section 12316(a)(1)(B)], “ammunition” means handgun
9 ammunition as defined in Section 16650.

10 (b) As used in [Section 12316(b)], “ammunition” includes, but is not limited to,
11 any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile
12 capable of being fired from a firearm with a deadly consequence.

13 **Comment.** Subdivision (a) of Section 16150 continues the second sentence of former Section
14 12316(a)(1)(B) without substantive change.

15 Subdivision (b) continues former Section 12316(b)(2) without substantive change.

16 **§ 16160. “Antique cannon”**

17 16160. As used in this part, “antique cannon” means any cannon manufactured
18 before January 1, 1899, which has been rendered incapable of firing or for which
19 ammunition is no longer manufactured in the United States and is not readily
20 available in the ordinary channels of commercial trade.

21 **Comment.** Section 16160 continues the second sentence of former Section 12301(a)(3)
22 without substantive change.

23 **§ 16170. “Antique firearm”**

24 16170. (a) As used in Sections 16110 and [12276.1], “antique firearm” means
25 any firearm manufactured before January 1, 1899.

26 (b) As used in [Sections 12085(e)(3), 12801(b)], and 16520, in subdivision (a)
27 of Section 23630, and in paragraph (1) of subdivision (b) of Section 27505,
28 “antique firearm” has the same meaning as in Section 921(a)(16) of Title 18 of the
29 United States Code.

30 (c) As used in Section 17700, “antique firearm” means either of the following:

31 (1) Any firearm not designed or redesigned for using rimfire or conventional
32 center fire ignition with fixed ammunition and manufactured in or before 1898.
33 This includes any matchlock, flintlock, percussion cap, or similar type of ignition
34 system or replica thereof, whether actually manufactured before or after the year
35 1898.

36 (2) Any firearm using fixed ammunition manufactured in or before 1898, for
37 which ammunition is no longer manufactured in the United States and is not
38 readily available in the ordinary channels of commercial trade.

39 **Comment.** Subdivision (a) of Section 16170 continues former Section 12276.1(d)(3) and
40 former Section 12278(d) without substantive change.

1 Subdivision (b) continues without substantive change the definition of “antique firearm” that
2 was used in former Sections 12001(e), 12078(p)(6)(B), 12085(e)(3), 12088.8(a), and 12801(b).

3 Subdivision (c) continues the second sentence of former Section 12020(b)(5) without
4 substantive change.

5 See Section 16520 (“firearm”).

6 **§ 16180. “Antique rifle”**

7 16180. As used in this part, “antique rifle” means a firearm conforming to the
8 definition of an “antique firearm” in Section 479.11 of Title 27 of the Code of
9 Federal Regulations.

10 **Comment.** Section 16180 continues the third sentence of former Section 12301(a)(3) without
11 substantive change.

12 See Section 16520 (“firearm”).

13 **§ 16190. “Application to purchase”**

14 16190. As used in Articles 1 (commencing with Section 26700) and 2
15 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4, and in
16 Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4,
17 “application to purchase” means either of the following:

18 (a) The initial completion of the register by the purchaser, transferee, or person
19 being loaned a firearm, as required by Section 28210.

20 (b) The initial completion and transmission to the Department of Justice of the
21 record of electronic or telephonic transfer by the dealer on the purchaser,
22 transferee, or person being loaned a firearm, as required by Section 28215.

23 **Comment.** Section 16190 continues former Section 12001(i) without substantive change.

24 See Section 16520 (“firearm”).

25 **§ 16200. “Assault weapon”**

26 16200. Use of the term “assault weapon” is governed by Sections _____, _____,
27 and _____.

28 **Comment.** Section 16200 is new. It is intended to help persons locate the provisions defining
29 “assault weapon.”

30 **§ 16220. “Ballistic knife”**

31 16220. As used in this part, “ballistic knife” means a device that propels a
32 knifelike blade as a projectile by means of a coil spring, elastic material, or
33 compressed gas. Ballistic knife does not include any device that propels an arrow
34 or a bolt by means of any common bow, compound bow, crossbow, or underwater
35 speargun.

36 **Comment.** Section 16220 continues former Section 12020(c)(8) without substantive change.

37 **§ 16230. “Ballistics identification system”**

38 16230. As used in this part, “ballistics identification system” includes, but is not
39 limited to, any automated image analysis system that is capable of storing firearm
40 ballistic markings and tracing those markings to the firearm that produced them.

1 **Comment.** Section 16230 continues former Section 12072.5(a) without substantive change.

2 **§ 16240. “Basic firearms safety certificate”**

3 16240. As used in this part, “basic firearms safety certificate” means a certificate
4 issued by the Department of Justice pursuant to [Article 8 (commencing with
5 Section 12800) of Chapter 6 of Title 2 of Part 4], before January 1, 2003.

6 **Comment.** Section 16240 continues former Section 12001(p) without substantive change.

7 **§ 16250. “BB device”**

8 16250. As used in this part, “BB device” means any instrument that expels a
9 projectile, such as a BB or a pellet, not exceeding 6mm caliber, through the force
10 of air pressure, gas pressure, or spring action, or any spot marker gun.

11 **Comment.** Section 16250 continues former Sections 12001(g) and 12550(a) without
12 substantive change.

13 **§ 16260. “Belt buckle knife”**

14 16260. As used in this part, “belt buckle knife” is a knife which is made an
15 integral part of a belt buckle and consists of a blade with a length of at least 2-1/2
16 inches.

17 **Comment.** Section 16260 continues former Section 12020(c)(13) without substantive change.

18 **§ 16270. “Blowgun”**

19 16270. As used in this part, “blowgun” means a hollow tube designed and
20 intended to be used as a tube through which a dart is propelled by the force of the
21 breath of the user.

22 **Comment.** Section 16270 continues former Section 12580 without substantive change.

23 **§ 16280. “Blowgun ammunition”**

24 16280. As used in this part, “blowgun ammunition” means a dart designed and
25 intended for use in a blowgun.

26 **Comment.** Section 16280 continues former Section 12581 without substantive change.
27 See Section 16270 (“blowgun”).

28 **§ 16290. “Body vest” or “body shield”**

29 16290. As used in this part, “body vest” or “body shield” means any bullet-
30 resistant material intended to provide ballistic and trauma protection for the wearer
31 or holder.

32 **Comment.** Section 16290 continues former Section 12323(c) without substantive change.

33 **§ 16300. “Bona fide evidence of majority and identity”**

34 16300. As used in this part, “bona fide evidence of majority and identity” means
35 a document issued by a federal, state, county, or municipal government, or
36 subdivision or agency thereof, including, but not limited to, a motor vehicle
37 operator’s license, California state identification card, identification card issued to

1 a member of the armed forces, or other form of identification that bears the name,
2 date of birth, description, and picture of the person.

3 **Comment.** Section 16300 continues the second sentence of former Section 12316(a)(2)
4 without substantive change.

5 **§ 16310. “Boobytrap”**

6 16310. As used in this part, “boobytrap” means any concealed or camouflaged
7 device designed to cause great bodily injury when triggered by an action of any
8 unsuspecting person coming across the device. Boobytraps may include, but are
9 not limited to, guns, ammunition, or explosive devices attached to trip wires or
10 other triggering mechanisms, sharpened stakes, and lines or wire with hooks
11 attached.

12 **Comment.** Section 16310 continues former Section 12355(c) without substantive change.

13 **§ 16320. “Camouflaging firearm container”**

14 16320. (a) As used in this part, “camouflaging firearm container” means a
15 container that meets all of the following criteria:

16 (1) It is designed and intended to enclose a firearm.

17 (2) It is designed and intended to allow the firing of the enclosed firearm by
18 external controls while the firearm is in the container.

19 (3) It is not readily recognizable as containing a firearm.

20 (b) “Camouflaging firearm container” does not include any camouflaging
21 covering used while engaged in lawful hunting or while going to or returning from
22 a lawful hunting expedition.

23 **Comment.** Section 16320 continues former Section 12020(c)(9) without substantive change.
24 See Section 16520 (“firearm”).

25 **§ 16330. “Cane gun”**

26 16330. As used in this part, “cane gun” means any firearm mounted or enclosed
27 in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being
28 used as, an aid in walking, if the firearm may be fired while mounted or enclosed
29 therein.

30 **Comment.** Section 16330 continues former Section 12020(c)(5) without substantive change.
31 See Section 16520 (“firearm”).

32 **§ 16340. “Cane sword”**

33 16340. As used in this part, “cane sword” means a cane, swagger stick, stick,
34 staff, rod, pole, umbrella, or similar device, having concealed within it a blade that
35 may be used as a sword or stiletto.

36 **Comment.** Section 16340 continues former Section 12020(c)(15) without substantive change.

37 **§ 16350. “Capacity to accept more than 10 rounds”**

38 16350. As used in [Section 12276.1], “capacity to accept more than 10 rounds”
39 means capable of accommodating more than 10 rounds. The term does not apply

1 to a feeding device that has been permanently altered so that it cannot
2 accommodate more than 10 rounds.

3 **Comment.** Section 16350 continues former Section 12276.1(d)(2) without substantive change.

4 **§ 16360. “CCW”**

5 16360. As used in this part, “CCW” means “carry concealed weapons.”

6 **Comment.** Section 16360 continues former Section 12027(a)(1)(E) without substantive
7 change.

8 **§ 16370. “Certified instructor” or “DOJ Certified Instructor”**

9 16370. As used in [Sections 12800-12809], “certified instructor” or “DOJ
10 Certified Instructor” means a person designated as a handgun safety instructor by
11 the Department of Justice pursuant to [subdivision (d) of Section 12804].

12 **Comment.** Section 16370 continues former Section 12801(a)(2) without substantive change.

13 **§ 16380. “Chamber load indicator”**

14 16380. As used in this part, “chamber load indicator” means a device that
15 plainly indicates that a cartridge is in the firing chamber. A device satisfies this
16 definition if it is readily visible, has incorporated or adjacent explanatory text or
17 graphics, or both, and is designed and intended to indicate to a reasonably
18 foreseeable adult user of the pistol, without requiring the user to refer to a user’s
19 manual or any other resource other than the pistol itself, whether a cartridge is in
20 the firing chamber.

21 **Comment.** Section 16380 continues former Section 12126(c) without substantive change. See
22 also former Section 12130(d)-(2), which used the same definition of “chamber load indicator.”

23 **§ 16400. “Clear evidence of the person’s identity and age”**

24 16400. As used in this part, “clear evidence of the person’s identity and age”
25 means either of the following:

26 (a) A valid California driver’s license.

27 (b) A valid California identification card issued by the Department of Motor
28 Vehicles.

29 **Comment.** Section 16400 continues former Section 12071(c)(1) without substantive change.

30 **§ 16410. “Consultant-evaluator”**

31 16410. As used in this part, “consultant-evaluator” means a consultant or
32 evaluator who, in the course of that person’s profession is loaned firearms from a
33 person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18
34 of the United States Code and the regulations issued pursuant thereto, for research
35 or evaluation, and has a current certificate of eligibility issued pursuant to Section
36 26710.

37 **Comment.** Section 16410 continues former Section 12001(s) without substantive change.

1 **§ 16420. “Dagger”**

2 16420. Use of the term “dagger” is governed by Section 16470.

3 **Comment.** Section 16420 is new. It is intended to help persons locate the definition of
4 “dagger,” which is the same as the definition of “dirk.”

6 **§ 16430. “Deadly weapon”**

7 16430. As used in Division 4 (commencing with Section 18250) of Title 2,
8 “deadly weapon” means any weapon, the possession or concealed carrying of
9 which is prohibited by any provision listed in Section 16590.

10 **Comment.** Section 16430 continues former Section 12028.5(a)(3) without substantive change.

11 **§ 16440. “Dealer”**

12 16440. Use of the term “dealer” is governed by Section 26700.

13 **Comment.** Section 16440 is new. It is intended to help persons locate the definition of
14 “dealer.”

15 See also Section 16790 (“licensed gun dealer”).

16 **Staff Note.** For discussion of this provision, see the Staff Note on Proposed Section 16440 in
17 the attachment to Memorandum 2008-52.

18 **§ 16450. “Department”**

19 16450. As used in [Sections 12086 and 12800-12809], “department” means the
20 Department of Justice.

21 **Comment.** Section 16450 continues former Sections 12086(a)(2) and 12801(a)(1) without
22 substantive change.

23 **§ 16460. “Destructive device”**

24 16460. (a) As used in Sections 16510, 16520, and 16780, and in Chapter 1
25 (commencing with Section 18710) of Division 5 of Title 2, “destructive device”
26 includes any of the following weapons:

27 (1) Any projectile containing any explosive or incendiary material or any other
28 chemical substance, including, but not limited to, that which is commonly known
29 as tracer or incendiary ammunition, except tracer ammunition manufactured for
30 use in shotguns.

31 (2) Any bomb, grenade, explosive missile, or similar device or any launching
32 device therefor.

33 (3) Any weapon of a caliber greater than 0.60 caliber which fires fixed
34 ammunition, or any ammunition therefor, other than a shotgun (smooth or rifled
35 bore) conforming to the definition of a “destructive device” found in subsection
36 (b) of Section 479.11 of Title 27 of the Code of Federal Regulations, shotgun
37 ammunition (single projectile or shot), antique rifle, or an antique cannon.

38 (4) Any rocket, rocket-propelled projectile, or similar device of a diameter
39 greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-
40 propelled projectile, or similar device containing any explosive or incendiary

1 material or any other chemical substance, other than the propellant for that device,
2 except those devices as are designed primarily for emergency or distress signaling
3 purposes.

4 (5) Any breakable container that contains a flammable liquid with a flashpoint
5 of 150 degrees Fahrenheit or less and has a wick or similar device capable of
6 being ignited, other than a device which is commercially manufactured primarily
7 for the purpose of illumination.

8 (6) Any sealed device containing dry ice (CO₂) or other chemically reactive
9 substances assembled for the purpose of causing an explosion by a chemical
10 reaction.

11 (b) A bullet containing or carrying an explosive agent is not a destructive device
12 as that term is used in subdivision (a).

13 **Comment.** Subdivision (a) of Section 16460 continues former Section 12301(a)(1)-(2) and the
14 first sentence of former Section 12301(a)(3) without substantive change. See also former Section
15 12601(b)(6) and the first sentence of former Section 12030(d), which used the same definition of
16 “destructive device.”

17 Subdivision (b) continues the second sentence of the second paragraph of former Section
18 12020(a)(4) without substantive change.

19 See Sections 16160 (“antique cannon”), 16180 (“antique rifle”).

20 **§ 16470. “Dirk” or “dagger”**

21 16470. As used in this part, “dirk” or “dagger” means a knife or other instrument
22 with or without a handguard that is capable of ready use as a stabbing weapon that
23 may inflict great bodily injury or death. A nonlocking folding knife, a folding
24 knife that is not prohibited by Section 21510, or a pocketknife is capable of ready
25 use as a stabbing weapon that may inflict great bodily injury or death only if the
26 blade of the knife is exposed and locked into position.

27 **Comment.** Section 16420 continues former Section 12020(c)(24) without substantive change.
28 See also former Section 12028(a), which referred to former Section 12020.

29 **§ 16480. “DOJ Certified Instructor”**

30 16480. Use of the term “DOJ Certified Instructor” is governed by Section
31 16370.

32 **Comment.** Section 16480 is new. It is intended to help persons locate the definition of “DOJ
33 Certified Instructor,” which is the same as the definition of “certified instructor.”

34 **§ 16490. “Domestic violence”**

35 16490. As used in this part, “domestic violence” means abuse perpetrated
36 against any of the following persons:

37 (a) A spouse or former spouse.

38 (b) A cohabitant or former cohabitant, as defined in Section 6209 of the Family
39 Code.

40 (c) A person with whom the respondent is having or has had a dating or
41 engagement relationship.

1 (d) A person with whom the respondent has had a child, where the presumption
2 applies that the male parent is the father of the child of the female parent under the
3 Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of
4 the Family Code).

5 (e) A child of a party or a child who is the subject of an action under the
6 Uniform Parentage Act, where the presumption applies that the male parent is the
7 father of the child to be protected.

8 (f) Any other person related by consanguinity or affinity within the second
9 degree.

10 **Comment.** Section 16490 continues former Section 12028.5(a)(2) without substantive change.

11 **§ 16500. “Drop safety requirement for handguns”**

12 16500. Use of the phrase “drop safety requirement for handguns” is governed by
13 Section ____.

14 **Comment.** Section 16500 is new. It is intended to help persons locate the definition of “drop
15 safety requirement for handguns.”

16 **§ 16510. “Explosive”**

17 16510. As used in Section 16460 and Chapter 1 (commencing with Section
18 18710) of Division 5 of Title 2, “explosive” means any substance, or combination
19 of substances, the primary or common purpose of which is detonation or rapid
20 combustion, and which is capable of a relatively instantaneous or rapid release of
21 gas and heat, or any substance, the primary purpose of which, when combined
22 with others, is to form a substance capable of a relatively instantaneous or rapid
23 release of gas and heat. “Explosive” includes, but is not limited to, any explosive
24 as defined in Section 841 of Title 18 of the United States Code and published
25 pursuant to Section 555.23 of Title 27 of the Code of Federal Regulations, and any
26 of the following:

27 (a) Dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black
28 powder, smokeless powder, propellant explosives, detonating primers, blasting
29 caps, or commercial boosters.

30 (b) Substances determined to be division 1.1, 1.2, 1.3, or 1.6 explosives as
31 classified by the United States Department of Transportation.

32 (c) Nitro carbo nitrate substances (blasting agent) classified as division 1.5
33 explosives by the United States Department of Transportation.

34 (d) Any material designated as an explosive by the State Fire Marshal. The
35 designation shall be made pursuant to the classification standards established by
36 the United States Department of Transportation. The State Fire Marshal shall
37 adopt regulations in accordance with the Government Code to establish procedures
38 for the classification and designation of explosive materials or explosive devices
39 that are not under the jurisdiction of the United States Department of
40 Transportation pursuant to provisions of Section 841 of Title 18 of the United

1 States Code and published pursuant to Section 555.23 of Title 27 of the Code of
2 Federal Regulations that define explosives.

3 (e) Certain division 1.4 explosives as designated by the United States
4 Department of Transportation when listed in regulations adopted by the State Fire
5 Marshal.

6 (f) As used in Section 16460 and Chapter 1 (commencing with Section 18710)
7 of Division 5 of Title 2, “explosive” does not include any destructive device, nor
8 does it include ammunition or small arms primers manufactured for use in
9 shotguns, rifles, and pistols.

10 **Comment.** Section 16510 continues former Section 12301(b) without substantive change. To
11 make the provision more easily understandable, the definition of “explosive” in Health and Safety
12 Code Section 12000 is repeated in Section 16510, rather than incorporated by reference as it was
13 in the past. Case law construing the definition in Health and Safety Code Section 12000 is
14 relevant in construing Section 16510.

15 See Section 16460 (“destructive device”).

16 § 16520. “Firearm”

17 16520. (a) As used in this part, “firearm” means any device, designed to be used
18 as a weapon, from which is expelled through a barrel, a projectile by the force of
19 any explosion or other form of combustion.

20 (b) As used in the following provisions, “firearm” includes the frame or receiver
21 of the weapon:

22 (1) [Section 12021].

23 (2) [Section 12021.1].

24 (3) [Section 12078, as it pertains to Sections 12072.5, 12077.5, and 12801(b)].

25 (4) [Section 12101].

26 (5) [Section 12801].

27 (6) Section 16550.

28 (7) Section 16730.

29 (8) Section 16960.

30 (9) Section 16990.

31 (10) Section 17310.

32 (11) Sections 26500 to 27140, inclusive.

33 (12) Sections 27400 to 28000, inclusive.

34 (13) Section 28100.

35 (14) Sections 28400 to 28415, inclusive.

36 (15) Sections 8100, 8101, and 8103 of the Welfare and Institutions Code.

37 (c) As used in the following provisions, “firearm” also includes any rocket,
38 rocket propelled projectile launcher, or similar device containing any explosive or
39 incendiary material whether or not the device is designed for emergency or
40 distress signaling purposes:

41 (1) Section 16750.

42 (2) Subdivision (b) of Section 16840.

43 (3) Section 25400.

- 1 (4) Sections 25850 to 26025, inclusive.
2 (5) Subdivisions (a), (b), and (c) of Section 26030.
3 (6) Sections 26035 to 26055, inclusive.
4 (d) As used in the following provisions, “firearm” does not include an unloaded
5 antique firearm:
6 (1) Subdivisions (a) and (c) of Section 16730.
7 (2) Section 16550.
8 (3) Section 16960.
9 (4) Section 17310.
10 (5) Sections 26500 to 26585, inclusive.
11 (6) Sections 26700 to 26915, inclusive.
12 (7) Section 27510.
13 (8) Section 27530.
14 (9) Section 27540.
15 (10) Section 27545.
16 (11) Sections 27555 to 27570, inclusive.
17 (e) As used in [Section 12030], “firearm” does not include a destructive device.
18 (f) As used in Sections 17280 and 24680, “firearm” has the same meaning as in
19 Section 922 of Title 18 of the United States Code.
20 **Comment.** Subdivision (a) of Section 16520 continues former Section 12001(b) without
21 substantive change, for purposes of “Part 6. Control of Deadly Weapons.” See also Section
22 12001, which continues former Section 12001(b) without substantive change, for purposes of
23 “Title 2. Sentencing Enhancements” of “Part 4. Prevention of Crimes and Apprehension of
24 Criminals.”
25 Subdivision (b) continues former Section 12001(c) without substantive change.
26 Subdivision (c) continues former Section 12001(d) without substantive change.
27 Subdivision (d) continues former Section 12001(e) without substantive change. See Section
28 16710 (“antique firearm”).
29 Subdivision (e) continues the fourth sentence of former Section 12030(d) without substantive
30 change. See Section 16460 (“destructive device”).
31 With respect to the definition of “firearm,” subdivision (f) continues the first paragraph of
32 former Section 12020(c)(22)(C) without substantive change.

33 **§ 16530. “Firearm capable of being concealed upon the person,” “pistol,” and “revolver”**

34 16530. (a) As used in this part, the terms “firearm capable of being concealed
35 upon the person,” “pistol,” and “revolver” apply to and include any device
36 designed to be used as a weapon, from which is expelled a projectile by the force
37 of any explosion, or other form of combustion, and that has a barrel less than 16
38 inches in length. These terms also include any device that has a barrel 16 inches or
39 more in length which is designed to be interchanged with a barrel less than 16
40 inches in length.

41 (b) Nothing shall prevent a device defined as a “firearm capable of being
42 concealed upon the person,” “pistol,” or “revolver” from also being found to be a
43 short-barreled rifle or a short-barreled shotgun.

44 **Comment.** Subdivision (a) of Section 16530 continues former Section 12001(a)(1) without
45 substantive change. See also former Sections 12126(e), 12323(a), and 12601(b)(1), and the

1 introductory clause of former Section 12126, all of which referred to the definition in Section
2 12001.

3 With respect to a “firearm capable of being concealed upon the person,” “pistol,” and
4 “revolver,” subdivision (b) continues former Section 12001(f) without substantive change. See
5 also Section 16640(b), which continues former Section 12001(f) with respect to a “handgun.”

6 See Sections 16520 (“firearm”), 17170 (“short-barreled rifle”), 17180 (“short-barreled
7 shotgun”). See also Section 16640 (“handgun” means “any pistol, revolver, or firearm capable of
8 being concealed upon the person”).

9 **§ 16540. “Firearm safety device”**

10 16540. As used in Division 2 (commencing with Section 23620) of Title 4,
11 “firearm safety device” means a device other than a gun safe that locks and is
12 designed to prevent children and unauthorized users from firing a firearm. The
13 device may be installed on a firearm, be incorporated into the design of the
14 firearm, or prevent access to the firearm.

15 **Comment.** Section 16540 continues former Section 12087.6(a) without substantive change.

16 See Sections 16520 (“firearm”), 16610 (“gun safe”).

17 **§ 16550. “Firearm transaction record”**

18 16550. As used in this part, “firearm transaction record” is a record containing
19 the same information referred to in subdivision (a) of Section 478.124, Section
20 478.124a, and subdivision (e) of Section 478.125 of Title 27 of the Code of
21 Federal Regulations.

22 **Comment.** Section 16550 continues former Section 12071(c)(4)(A) without substantive
23 change.

24 **§ 16560. “Firing requirement for handguns”**

25 16560. Use of the phrase “firing requirement for handguns” is governed by
26 Section ____.

27 **Comment.** Section 16560 is new. It is intended to help persons locate the definition of “firing
28 requirement for handguns.”

29 **§ 16570. “Flechette dart”**

30 16570. As used in this part, “flechette dart” means a dart, capable of being fired
31 from a firearm, that measures approximately one inch in length, with tail fins that
32 take up approximately five-sixteenths of an inch of the body.

33 **Comment.** Section 16570 continues former Section 12020(c)(6) without substantive change.

34 See Section 16520 (“firearm”).

35 **§ 16575. “Former Article 4 of Chapter 1 provisions”**

36 16575. (a) Except as stated in subdivision (c), the following provisions were
37 formerly included in Article 4 (commencing with Section 12070) of Chapter 1 of
38 Title 2 of Part 4, which was entitled “Licenses to Sell Firearms”:

39 (1) Section 16130.

40 (2) Section 16400.

41 (3) Section 16550.

- 1 (4) Section 16620.
- 2 (5) Section 16720.
- 3 (6) Section 16730.
- 4 (7) Section 16800.
- 5 (8) Section 16810.
- 6 (9) Section 16960.
- 7 (10) Section 16990
- 8 (11) Section 17110.
- 9 (12) Section 17310.
- 10 (13) Division 6 (commencing with Section 26500) of Title 4.
- 11 (14) [Section 12072.5].
- 12 (15) [Section 12077.5].
- 13 (16) [Section 12078, as it pertains to Sections 12072.5, 12077.5, and 12801(b)].
- 14 (17) [Section 12079].
- 15 (18) [Section 12080].
- 16 (19) [Section 12081].
- 17 (20) [Section 12085].
- 18 (21) [Section 12086].

19 (b) Except as stated in subdivision (c), the provisions listed in subdivision (a)
20 may be referred to as “former Article 4 of Chapter 1 provisions.”

21 (c) Subdivision (a) does not include any section that is first codified in one of
22 the specified numerical ranges after the effective date of the Deadly Weapons
23 Recodification Act of 2012.

24 **Comment.** Section 16575 is new. It provides a convenient means of referring to former
25 Sections 12070-12086.

26 For a disposition table showing where each provision in former Sections 12070-12086 was
27 recodified, see *Nonsubstantive Reorganization of Deadly Weapon Statutes*, __ Cal. L. Revision
28 Comm’n Reports __ (2009).

29 **Staff Note.** We have not yet conformed the cross-references in this provision, so they are
30 shown in brackets. That step will be easier to do later in this study, when new Part 6 is essentially
31 complete.

32 § 16580. “Former Chapter 1 provisions”

33 16580. (a) Except as stated in subdivision (c), the following provisions were
34 formerly included in Chapter 1 (commencing with Section 12000) of Title 2 of
35 Part 4, which was entitled “Firearms”:

- 36 (1) [Sections 12000 to 12021.3, inclusive].
- 37 (2) Sections 12021.5 to 12022.95, inclusive.
- 38 (3) [Sections 12023 to 12101, inclusive].

39 (b) Except as stated in subdivision (c), the provisions listed in subdivision (a)
40 may be referred to as “former Chapter 1 provisions.”

41 (c) Subdivision (a) does not include any section that is first codified in one of
42 the specified numerical ranges after the effective date of the Deadly Weapons
43 Recodification Act of 2012.

1 **Comment.** Section 16580 is new. It provides a convenient means of referring to former
2 Sections 12000-12101.

3 For a disposition table showing where each provision in former Sections 12000-12101 was
4 recodified, see *Nonsubstantive Reorganization of Deadly Weapon Statutes*, __ Cal. L. Revision
5 Comm’n Reports __ (2009).

6 **Staff Note.** We have not yet conformed the cross-references in this provision, so they are
7 shown in brackets. That step will be easier to do later in this study, when new Part 6 is essentially
8 complete.

9 **§ 16590. “Generally prohibited weapon”**

10 16590. As used in this part, “generally prohibited weapon” means any of the
11 following:

- 12 (a) An air gauge knife, as prohibited by Section 20310.
- 13 (b) Ammunition that contains or consists of a flechette dart, as prohibited by
14 Section ____.
- 15 (c) A ballistic knife, as prohibited by Section 21110.
- 16 (d) A belt buckle knife, as prohibited by Section 20410.
- 17 (e) A bullet containing or carrying an explosive agent, as prohibited by Section
18 ____.
- 19 (f) A camouflaging firearm container, as prohibited by Section 24310.
- 20 (g) A cane gun, as prohibited by Section 24410.
- 21 (h) A cane sword, as prohibited by Section 20510.
- 22 (i) A concealed dirk or dagger, as prohibited by Section 21310.
- 23 (j) A concealed explosive substance, other than fixed ammunition, as prohibited
24 by Section 19100.
- 25 (k) A firearm that is not immediately recognizable as a firearm, as prohibited by
26 Section 24510.
- 27 (l) A large-capacity magazine, as prohibited by Section ____.
- 28 (m) A leaded cane or an instrument or weapon of the kind commonly known as
29 a billy, blackjack, sandbag, sandclub, sap, or slungshot, as prohibited by Section
30 22210.
- 31 (n) A lipstick case knife, as prohibited by Section 20610.
- 32 (o) Metal knuckles, as prohibited by Section 21810.
- 33 (p) A metal military practice handgrenade or a metal replica handgrenade, as
34 prohibited by Section 19200.
- 35 (q) A multiburst trigger activator, as prohibited by Section ____.
- 36 (r) A nunchaku, as prohibited by Section 22010.
- 37 (s) A shobi-zue, as prohibited by Section 20710.
- 38 (t) A short-barreled rifle or short-barreled shotgun, as prohibited by Section
39 ____.
- 40 (u) A shuriken, as prohibited by Section 22410.
- 41 (v) An unconventional pistol, as prohibited by Section ____.
- 42 (w) An undetectable firearm, as prohibited by Section 24610.
- 43 (x) A wallet gun, as prohibited by Section 24710.

(y) A writing pen knife, as prohibited by Section 20910.

(z) A zip gun, as prohibited by Section ____.

Comment. Section 16590 is new. It defines the term “generally prohibited weapon” for drafting convenience. Each of the items listed in this section was formerly listed in subdivision (a) of former Section 12020.

See Sections 16140 (“air gauge knife”), 16220 (“ballistic knife”), 16260 (“belt buckle knife”), 16320 (“camouflaging firearm container”), 16330 (“cane gun”), 16340 (“cane sword”), 16470 (“dirk” or “dagger”), 16510 (“explosive”), 16520 (“firearm”), 16570 (“flechette dart”), 16740 (“large capacity magazine”), 16760 (“leaded cane”), 16830 (“lipstick case knife”), 16920 (“metal knuckles”), 16930 (“multiburst trigger activator”), 16940 (“nunchaku”), 17160 (“shobi-zue”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”), 17200 (“shuriken”), 17270 (“unconventional pistol”), 17280 (“undetectable firearm”), 17330 (“wallet gun”), 17350 (“writing pen knife”), 17360 (“zip gun”).

§ 16600. “Great bodily injury”

16600. As used in Chapter 2 (commencing with Section 25100) of Division 4 of Title 4, “great bodily injury” means a significant or substantial physical injury.

Comment. Section 16600 continues former Section 12035(a)(4) without substantive change. To make the provision more easily understandable, the definition of “great bodily injury” in Section 12022.7 is repeated in Section 16600, rather than incorporated by reference as it was in the past. Case law construing the definition in Section 12022.7 is relevant in construing Section 16600.

§ 16610. “Gun safe”

16610. As used in this part, “gun safe” means a locking container that fully contains and secures one or more firearms, and that meets the standards for gun safes adopted pursuant to Section 23650.

Comment. Section 16610 continues former Section 12087.6(b) without substantive change. See Section 16520 (“firearm”).

§ 16620. “Gun Show Trader”

16620. As used in this part, “Gun Show Trader” means a person described in Section 26525.

Comment. Section 16620 continues the second paragraph of former Section 12070(b)(5) without substantive change.

§ 16630. “Gunsmith”

16630. As used in this part, “gunsmith” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, who is engaged primarily in the business of repairing firearms, or making or fitting special barrels, stocks, or trigger mechanisms to firearms, or the agent or employee of that person.

Comment. Section 16630 continues former Section 12001(r) without substantive change. See Section 16520 (“firearm”).

1 **§ 16640. “Handgun”**

2 16640. (a) As used in this part, “handgun” means any pistol, revolver, or firearm
3 capable of being concealed upon the person.

4 (b) Nothing shall prevent a device defined as a “handgun” from also being found
5 to be a short-barreled rifle or a short-barreled shotgun.

6 **Comment.** Subdivision (a) of Section 16640 continues former Section 12001(a)(2) without
7 substantive change. See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed
8 upon the person,” “pistol,” and “revolver”).

9 With respect to a “handgun,” subdivision (b) continues former Section 12001(f) without
10 substantive change. See also Section 16530(b), which continues former Section 12001(f) with
11 respect to a “firearm capable of being concealed upon the person,” “pistol,” and “revolver.”

12 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
13 “pistol,” and “revolver”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

14 **§ 16650. “Handgun ammunition”**

15 16650. As used in this part, “handgun ammunition” means ammunition
16 principally for use in pistols, revolvers, and other firearms capable of being
17 concealed upon the person, notwithstanding that the ammunition may also be used
18 in some rifles.

19 **Comment.** Section 16650 continues former Section 12323(a) without substantive change.

20 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
21 “pistol,” and “revolver”).

22 **§ 16660. “Handgun ammunition designed primarily to penetrate metal or armor”**

23 16660. As used in this part, “handgun ammunition designed primarily to
24 penetrate metal or armor” means any ammunition, except a shotgun shell or
25 ammunition primarily designed for use in a rifle, that is designed primarily to
26 penetrate a body vest or body shield, and has either of the following
27 characteristics:

28 (a) Has projectile or projectile core constructed entirely, excluding the presence
29 of traces of other substances, from one or a combination of tungsten alloys, steel,
30 iron, brass, beryllium copper, or depleted uranium, or any equivalent material of
31 similar density or hardness.

32 (b) Is primarily manufactured or designed, by virtue of its shape, cross-sectional
33 density, or any coating applied thereto, including, but not limited to, ammunition
34 commonly known as “KTW ammunition,” to breach or penetrate a body vest or
35 body shield when fired from a pistol, revolver, or other firearm capable of being
36 concealed upon the person.

37 **Comment.** Section 16660 continues former Section 12323(b) without substantive change.

38 See Sections 16290 (“body vest” or “body shield”), 16520 (“firearm”), 16530 (“firearm
39 capable of being concealed upon the person,” “pistol,” and “revolver”), 16650 (“handgun
40 ammunition”).

41 **§ 16670. “Handgun safety certificate”**

42 16670. As used in this part, “handgun safety certificate” means a certificate
43 issued by the Department of Justice pursuant to [Article 8 (commencing with

1 Section 12800) of Chapter 6 of Title 2 of Part 4, as that article is operative on or
2 after January 1, 2003].

3 **Comment.** Section 16670 continues former Section 12001(q) without substantive change.
4 See Section 16640 (“handgun”).

5 **§ 16680. “Hard plastic knuckles”**

6 16680. As used in this part, “hard plastic knuckles” means any device or
7 instrument made wholly or partially of plastic that is not metal knuckles, that is
8 worn for purposes of offense or defense in or on the hand, and that either protects
9 the wearer’s hand while striking a blow or increases the force of impact from the
10 blow or injury to the individual receiving the blow. The plastic contained in the
11 device may help support the hand or fist, provide a shield to protect it, or consist
12 of projections or studs that would contact the individual receiving a blow.

13 **Comment.** Section 16680 continues the second and third sentences of former Section 12020.1
14 without substantive change.

15 See Section 16920 (“metal knuckles”).

16 **§ 16690. “Honorably retired”**

17 16690. As used in Sections 25650 and 26020, Article 2 (commencing with
18 Section 25450) of Chapter 2 of Division 5 of Title 4, and Article 3 (commencing
19 with Section 25900) of Chapter 3 of Division 5 of Title 4, “honorably retired”
20 includes any peace officer who has qualified for, and has accepted, a service or
21 disability retirement. As used in those provisions, “honorably retired” does not
22 include an officer who has agreed to a service retirement in lieu of termination.

23 **Comment.** Section 16690 continues the fourth and fifth sentences of former Section
24 12027(a)(1)(A) without substantive change.

25 **§ 16700. “Imitation firearm”**

26 16700. (a) As used in this part, “imitation firearm” means any BB device, toy
27 gun, replica of a firearm, or other device that is so substantially similar in
28 coloration and overall appearance to an existing firearm as to lead a reasonable
29 person to perceive that the device is a firearm.

30 (b) As used in Section 20165, “imitation firearm” does not include any of the
31 following:

32 (1) A nonfiring collector’s replica that is historically significant, and is offered
33 for sale in conjunction with a wall plaque or presentation case.

34 (2) A BB device.

35 (3) A device where the entire exterior surface of the device is white, bright red,
36 bright orange, bright yellow, bright green, bright blue, bright pink, or bright
37 purple, either singly or as the predominant color in combination with other colors
38 in any pattern, as provided by federal regulations governing imitation firearms, or
39 where the entire device is constructed of transparent or translucent materials which
40 permits unmistakable observation of the device’s complete contents, as provided
41 by federal regulations governing imitation firearms.

1 **Comment.** Subdivision (a) of Section 16700 continues former Section 12550(c) without
2 substantive change.

3 Subdivision (b) continues former Section 12555(c) without substantive change.

4 See Sections 16250 (“BB device”), 16520 (“firearm”).

5 **§ 16720. “Immediate family member”**

6 16720. As used in this part, “immediate family member” means either of the
7 following relationships:

8 (a) Parent and child.

9 (b) Grandparent and grandchild.

10 **Comment.** Section 16720 continues former Section 12078(c)(3) without substantive change.

11 **§ 16730. “Infrequent”**

12 16730. (a) As used in Division 6 (commencing with Section 26500) of Title 4
13 and [Section 12078(s)(1), as it pertains to Section 12801(b)], “infrequent” means:

14 (1) For pistols, revolvers, and other firearms capable of being concealed upon
15 the person, less than six transactions per calendar year.

16 (2) For firearms other than pistols, revolvers, or other firearms capable of being
17 concealed upon the person, occasional and without regularity.

18 (b) As used in Section 27900, the term “infrequent” shall not be construed to
19 prohibit different local chapters of the same nonprofit corporation from conducting
20 auctions or similar events, provided the individual local chapter conducts the
21 auctions or similar events infrequently. It is the intent of the Legislature that
22 different local chapters, representing different localities, be entitled to invoke the
23 exemption created by Section 27900, notwithstanding the frequency with which
24 other chapters of the same nonprofit corporation may conduct auctions or similar
25 events.

26 (c) As used in this section, “transaction” means a single sale, lease, or transfer of
27 any number of pistols, revolvers, or other firearms capable of being concealed
28 upon the person.

29 **Comment.** Subdivision (a) of Section 16730 continues the first sentence of former Section
30 12070(c)(1)(A), former Section 12070(c)(1)(B), and former Section 12078(u)(1) without
31 substantive change.

32 Subdivision (b) continues the second paragraph of former Section 12078(g)(1) without
33 substantive change.

34 Subdivision (c) continues the second sentence of former Section 12070(c)(1)(A) without
35 substantive change.

36 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
37 “pistol,” and “revolver”).

38 **Staff Note.** For discussion of this provision, see the Staff Note on Proposed Section 16440 in
39 the attachment to Memorandum 2008-52.

40 **§ 16740. “Large-capacity magazine”**

41 16740. As used in this part, “large-capacity magazine” means any ammunition
42 feeding device with the capacity to accept more than 10 rounds, but shall not be
43 construed to include any of the following:

1 (a) A feeding device that has been permanently altered so that it cannot
2 accommodate more than 10 rounds.

3 (b) A .22 caliber tube ammunition feeding device.

4 (c) A tubular magazine that is contained in a lever-action firearm.

5 **Comment.** Section 16740 continues former Sections 12020(c)(25) and 12079(b) without
6 substantive change.

7 **§ 16750. “Lawful possession of the firearm”**

8 16750. (a) As used in Section 25400, “lawful possession of the firearm” means
9 that the person who has possession or custody of the firearm either lawfully owns
10 the firearm or has the permission of the lawful owner or a person who otherwise
11 has apparent authority to possess or have custody of the firearm. A person who
12 takes a firearm without the permission of the lawful owner or without the
13 permission of a person who has lawful custody of the firearm does not have lawful
14 possession of the firearm.

15 (b) As used in Articles 2 (commencing with Section 25850), 3 (commencing
16 with Section 25900), and 4 (commencing with Section 26000) of Chapter 3 of
17 Division 5 of Title 4, “lawful possession of the firearm” means that the person
18 who has possession or custody of the firearm either lawfully acquired and lawfully
19 owns the firearm or has the permission of the lawful owner or person who
20 otherwise has apparent authority to possess or have custody of the firearm. A
21 person who takes a firearm without the permission of the lawful owner or without
22 the permission of a person who has lawful custody of the firearm does not have
23 lawful possession of the firearm.

24 **Comment.** Subdivision (a) of Section 16750 continues former Section 12025(g) without
25 substantive change.

26 Subdivision (b) continues former Section 12031(a)(3) without substantive change.

27 See Section 16520 (“firearm”).

28 **§ 16760. “Leaded cane”**

29 16760. As used in this part, a “leaded cane” means a staff, crutch, stick, rod,
30 pole, or similar device, unnaturally weighted with lead.

31 **Comment.** Section 16760 continues former Section 12020(c)(17) without substantive change.

32 **§ 16770. “Less lethal ammunition”**

33 16770. As used in this part, “less lethal ammunition” means any ammunition
34 that satisfies both of the following requirements:

35 (a) It is designed to be used in any less lethal weapon or any other kind of
36 weapon (including, but not limited to, any firearm, pistol, revolver, shotgun, rifle,
37 or spring, compressed air, or compressed gas weapon).

38 (b) When used in a less lethal weapon or other weapon, it is designed to
39 immobilize, incapacitate, or stun a human being through the infliction of any less
40 than lethal impairment of physical condition, function, or senses, including
41 physical pain or discomfort.

1 **Comment.** Section 16770 continues former Section 12601(c) without substantive change.
2 See Sections 16520 (“firearm”), 16780 (“less lethal weapon”), 17010 (“pistol”), 17080
3 (“revolver”).

4 **§ 16780. “Less lethal weapon”**

5 16780. As used in this part,

6 (a) “Less lethal weapon” means any device that is designed to or that has been
7 converted to expel or propel less lethal ammunition by any action, mechanism, or
8 process for the purpose of incapacitating, immobilizing, or stunning a human
9 being through the infliction of any less than lethal impairment of physical
10 condition, function, or senses, including physical pain or discomfort. It is not
11 necessary that a weapon leave any lasting or permanent incapacitation, discomfort,
12 pain, or other injury or disability in order to qualify as a less lethal weapon.

13 (b) Less lethal weapon includes the frame or receiver of any weapon described
14 in subdivision (a), but does not include any of the following unless the part or
15 weapon has been converted as described in subdivision (a):

16 (1) Pistol, revolver, or firearm.

17 (2) Machinegun.

18 (3) Rifle or shotgun using fixed ammunition consisting of standard primer and
19 powder and not capable of being concealed upon the person.

20 (4) A pistol, rifle, or shotgun that is a firearm having a barrel less than 0.18
21 inches in diameter and that is designed to expel a projectile by any mechanical
22 means or by compressed air or gas.

23 (5) When used as designed or intended by the manufacturer, any weapon that is
24 commonly regarded as a toy gun, and that as a toy gun is incapable of inflicting
25 any impairment of physical condition, function, or senses.

26 (6) A destructive device.

27 (7) A tear gas weapon.

28 (8) A bow or crossbow designed to shoot arrows.

29 (9) A device commonly known as a slingshot.

30 (10) A device designed for the firing of stud cartridges, explosive rivets, or
31 similar industrial ammunition.

32 (11) A device designed for signaling, illumination, or safety.

33 (12) An assault weapon.

34 **Comment.** Section 16780 continues former Section 12601(a)-(b) without substantive change.

35 See Sections 16460 (“destructive device”), 16520 (“firearm”), 16880 (“machinegun”), 17010
36 (“pistol”), 17080 (“revolver”), 17250 (“tear gas weapon”), _____ (“assault weapon”), _____
37 (further clarification of “assault weapon”), _____ (exemptions from definition of “assault
38 weapon”).

39 **§ 16790. “Licensed gun dealer”**

40 16790. As used in [Sections 12285 and 12290], “licensed gun dealer” means a
41 person who is licensed pursuant to Sections 26700 to 26915, inclusive, and who
42 has a permit to sell assault weapons or .50 BMG rifles pursuant to [Section
43 12287].

1 **Comment.** Section 16790 continues former Section 12290(c) without substantive change. See
2 also former Section 12285(b)-(c), which used the same definition of “licensed gun dealer.”

3 See Sections 16110 (“.50 BMG rifle”), _____ (“assault weapon”), _____ (further clarification
4 of “assault weapon”), _____ (exemptions from definition of “assault weapon”).

5 See also Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
6 26915, inclusive”).

7 **§ 16800. “Licensed gun show producer”**

8 16800. As used in this part, “licensed gun show producer” means a person who
9 has been issued a certificate of eligibility by the Department of Justice pursuant to
10 Section 27200. No regulations shall be required to implement this section.

11 **Comment.** Section 16800 continues former Section 12071.1(c) without substantive change.

12 **§ 16810. “Licensed premises,” “licensee’s business premises,” and “licensee’s place of**
13 **business”**

14 16810. As used in Section 17110 and in Articles 1 (commencing with Section
15 26700) and 2 (commencing with Section 26800) of Chapter 2 of Division 6 of
16 Title 4, “licensed premises,” “licensee’s business premises,” or “licensee’s place
17 of business” means the building designated in the license.

18 **Comment.** Section 16810 continues former Section 12071(c)(3) without substantive change.

19 **§ 16820. “Licensee”**

20 16820. (a) In the provisions listed in Section 16580, use of the term “licensee” is
21 governed by Section 26700.

22 (b) In [Section 12086], “licensee” means a person, firm, or corporation that
23 satisfies both of the following:

24 (1) Has a license issued pursuant to [Section 12086(b)(2)].

25 (2) Is among those recorded in the centralized list specified in [Section
26 12086(f)].

27 **Comment.** Subdivision (a) of Section 16820 is new. It is intended to help persons locate the
28 definition of “licensee” that applies for purposes of the specified provisions.

29 Subdivision (b) continues former Section 12086(a)(1) without substantive change.

30 See also Section 16790 (“licensed gun dealer”).

31 **Staff Note.** For discussion of this provision, see the Staff Note on Proposed Section 16440 in
32 the attachment to Memorandum 2008-52.

33 **§ 16822. “Licensee’s business premises”**

34 16822. Use of the term “licensee’s business premises” is governed by Section
35 16810.

36 **Comment.** Section 16822 is new. It is intended to help persons locate the definition of
37 “licensee’s business premises, which is the same as the definition of “licensed premises” in
38 Section 16810.

39 **§ 16824. “Licensee’s place of business”**

40 16824. Use of the term “licensee’s place of business” is governed by Section
41 16810.

1 **Comment.** Section 16824 is new. It is intended to help persons locate the definition of
2 “licensee’s place of business, which is the same as the definition of “licensed premises” in
3 Section 16810.

4 **§ 16830. “Lipstick case knife”**

5 16830. As used in this part, a “lipstick case knife” means a knife enclosed within
6 and made an integral part of a lipstick case.

7 **Comment.** Section 16830 continues former Section 12020(c)(14) without substantive change.

8 **§ 16840. “Loaded” and “loaded firearm”**

9 16840. (a) As used in Section 25800, a firearm shall be deemed to be “loaded”
10 whenever both the firearm and the unexpended ammunition capable of being
11 discharged from the firearm are in the immediate possession of the same person.

12 (b) As used in Chapter 2 (commencing with Section 25100) of Division 4 of
13 Title 4, in subparagraph (A) of paragraph (6) of subdivision (c) of Section 25400,
14 and in Sections 25850 to 26060, inclusive,

15 (1) A firearm shall be deemed to be “loaded” when there is an unexpended
16 cartridge or shell, consisting of a case that holds a charge of powder and a bullet or
17 shot, in, or attached in any manner to, the firearm, including, but not limited to, in
18 the firing chamber, magazine, or clip thereof attached to the firearm.

19 (2) Notwithstanding paragraph (1), a muzzle-loader firearm shall be deemed to
20 be loaded when it is capped or primed and has a powder charge and ball or shot in
21 the barrel or cylinder.

22 **Comment.** Subdivision (a) of Section 16840 continues former Section 12001(j) without
23 substantive change.

24 Subdivision (b) continues former Sections 12031(g) and 12035(a)(2) without substantive
25 change. See also former Section 12025(b)(6)(A), which used the same definition of “loaded.”

26 See Section 16520 (“firearm”).

27 **§ 16850. “Locked container”**

28 16850. As used in Sections 17740, 23925, 25105, 25205, and 25610, and in
29 Article 2 (commencing with Section 25500) of Chapter 2 of Division 5 of Title 4,
30 “locked container” means a secure container that is fully enclosed and locked by a
31 padlock, keylock, combination lock, or similar locking device. The term “locked
32 container” does not include the utility or glove compartment of a motor vehicle.

33 **Comment.** Section 16850 continues former Sections 12026.2(d), 12035(a)(5), and 12036(a)(4)
34 without substantive change. See also former Sections 12020(b)(17)(E) and 12094(b)(4)(E), which
35 used the same definition of “locked container.” Section 16850 also continues the combined effect
36 of subdivision (c) and the last phrase of paragraph (a)(1) (“other than the utility or glove
37 compartment”) of former Section 12026.1 without substantive change.

38 See Section 16520 (“firearm”).

39 **§ 16860. “Locking device” for firearm**

40 16860. As used in Sections 16850, 25105, and 25205, “locking device” means a
41 device that is designed to prevent a firearm from functioning and, when applied to
42 the firearm, renders the firearm inoperable.

1 **Comment.** Section 16860 continues former Sections 12035(a)(1) and 12036(a)(1) without
2 substantive change.

3 See Section 16520 (“firearm”).

4 **§ 16870. “Long-gun safe”**

5 16870. As used in this part, “long-gun safe” means a locking container designed
6 to fully contain and secure a rifle or shotgun, which has a locking system
7 consisting of either a mechanical combination lock or an electronic combination
8 lock that has at least 1,000 possible unique combinations consisting of a minimum
9 of three numbers, letters, or symbols per combination, and is not listed on the
10 roster maintained pursuant to Section 23655.

11 **Comment.** Section 16870 continues former Section 12087.6(c) without substantive change.
12 See also former Section 12071(b)(20)(G)(ii)(II), which used the same definition of “long-gun
13 safe.”

14 See Sections 17090 (“rifle”), 17190 (“shotgun”).

15 **§ 16880. “Machinegun”**

16 16880. (a) As used in this part, “machinegun” means any weapon that shoots, is
17 designed to shoot, or can readily be restored to shoot, automatically more than one
18 shot, without manual reloading, by a single function of the trigger.

19 (b) The term “machinegun” also includes the frame or receiver of any weapon
20 described in subdivision (a), any part designed and intended solely and
21 exclusively, or combination of parts designed and intended, for use in converting a
22 weapon into a machinegun, and any combination of parts from which a
23 machinegun can be assembled if those parts are in the possession or under the
24 control of a person.

25 (c) The term “machinegun” also includes any weapon deemed by the federal
26 Bureau of Alcohol, Tobacco, and Firearms as readily convertible to a machinegun
27 under Chapter 53 (commencing with Section 5801) of Title 26 of the United States
28 Code.

29 **Comment.** Section 16880 continues former Section 12200 without substantive change. See
30 also former Sections 12001(n)(12), 12072(f)(1)(A), 12278(a), and 12601(b)(2), which used the
31 same definition of “machinegun.”

32 **§ 16890. “Magazine”**

33 16890. As used in [Section 12276.1], “magazine” means any ammunition
34 feeding device.

35 **Comment.** Section 16890 continues former Section 12276.1(d)(1) without substantive change.

36 **§ 16900. “Magazine disconnect mechanism”**

37 16900. As used in this part, “magazine disconnect mechanism” means a
38 mechanism that prevents a semiautomatic pistol that has a detachable magazine
39 from operating to strike the primer of ammunition in the firing chamber when a
40 detachable magazine is not inserted in the semiautomatic pistol.

1 **Comment.** Section 16900 continues former Section 12126(d) without substantive change. See
2 also former Section 12130(d)(1)-(3), which used the same definition of “magazine disconnect
3 mechanism.”

4 See Sections 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
5 “revolver”), 17140 (“semiautomatic pistol”).

6 **§ 16920. “Metal knuckles”**

7 16920. As used in this part, “metal knuckles” means any device or instrument
8 made wholly or partially of metal that is worn for purposes of offense or defense
9 in or on the hand and that either protects the wearer’s hand while striking a blow
10 or increases the force of impact from the blow or injury to the individual receiving
11 the blow. The metal contained in the device may help support the hand or fist,
12 provide a shield to protect it, or consist of projections or studs which would
13 contact the individual receiving a blow.

14 **Comment.** Section 16920 continues former Section 12020(c)(7) without substantive change.
15 See also former Sections 12020.1 and 12029, which referred to former Section 12020.

16 **§ 16930. “Multiburst trigger activator”**

17 16930. As used in this part, a “multiburst trigger activator” means either of the
18 following:

19 (a) A device designed or redesigned to be attached to a semiautomatic firearm,
20 which allows the firearm to discharge two or more shots in a burst by activating
21 the device.

22 (b) A manual or power-driven trigger activating device constructed and designed
23 so that when attached to a semiautomatic firearm it increases the rate of fire of that
24 firearm.

25 **Comment.** Section 16930 continues former Section 12020(c)(23) without substantive change.
26 See Section 16520 (“firearm”).

27 **§ 16940. “Nunchaku”**

28 16940. As used in this part, “nunchaku” means an instrument consisting of two
29 or more sticks, clubs, bars or rods to be used as handles, connected by a rope,
30 cord, wire, or chain, in the design of a weapon used in connection with the practice
31 of a system of self-defense such as karate.

32 **Comment.** Section 16940 continues former Section 12020(c)(3) without substantive change.
33 See also former Section 12029, which referred to former Section 12020.

34 **§ 16960. “Operation of law”**

35 16960. As used in Article 1 (commencing with Section 26500) of Chapter 1 of
36 Division 1 of Title 4, “operation of law” includes, but is not limited to, any of the
37 following:

38 (a) The executor or administrator of an estate, if the estate includes a firearm.

39 (b) A secured creditor or an agent or employee of a secured creditor when a
40 firearm is possessed as collateral for, or as a result of, a default under a security
41 agreement under the Commercial Code.

1 (c) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the
2 Code of Civil Procedure.

3 (d) A receiver performing the functions of a receiver, if the receivership estate
4 includes a firearm.

5 (e) A trustee in bankruptcy performing the duties of a trustee, if the bankruptcy
6 estate includes a firearm.

7 (f) An assignee for the benefit of creditors performing the functions of an
8 assignee, if the assignment includes a firearm.

9 (g) A transmutation of property between spouses pursuant to Section 850 of the
10 Family Code.

11 (h) A firearm received by the family of a police officer or deputy sheriff from a
12 local agency pursuant to Section 50081 of the Government Code.

13 (i) The transfer of a firearm by a law enforcement agency to the person who
14 found the firearm where the delivery is to the person as the finder of the firearm
15 pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3
16 of the Civil Code.

17 **Comment.** Section 16960 continues former Section 12070(c)(2) without substantive change.

18 **§ 16965. “Passenger’s or driver’s area”**

19 16965. As used in this part, “passenger’s or driver’s area” means that part of a
20 motor vehicle which is designed to carry the driver and passengers, including any
21 interior compartment or space therein.

22 **Comment.** Section 16965 continues the third paragraph of former Section 653k without
23 substantive change.

24 **§ 16970. “Person”**

25 16970. As used in Sections 17505 and [12275-12290], “person” means an
26 individual, partnership, corporation, limited liability company, association, or any
27 other group or entity, regardless of how it was created.

28 **Comment.** Section 16970 continues former Section 12277 without substantive change. See
29 also former Section 12020.5, which used the same definition of “person.”

30 See Section 7 (“the word ‘person’ includes a corporation as well as a natural person”).

31 **§ 16980. “Person licensed pursuant to Sections 26700 to 26915, inclusive”**

32 16980. Use of the term “person licensed pursuant to Sections 26700 to 26915,
33 inclusive” is governed by Section 26700.

34 **Comment.** Section 16980 is new. It is intended to help persons locate the definition of “person
35 licensed pursuant to Sections 26700 to 26915, inclusive.”

36 See also Section 16790 (“licensed gun dealer”).

37 **Staff Note.** For discussion of this provision, see the Staff Note on Proposed Section 16440 in
38 the attachment to Memorandum 2008-52.

1 **§ 16990. “Person taking title or possession of a firearm by operation of law”**

2 16990. As used in [Section 12078], the phrase “a person taking title or
3 possession of a firearm by operation of law” includes, but is not limited to, any of
4 the following instances in which an individual receives title to, or possession of, a
5 firearm:

6 (a) The executor or administrator of an estate, if the estate includes a firearm.

7 (b) A secured creditor or an agent or employee of a secured creditor when the
8 firearm is possessed as collateral for, or as a result of, a default under a security
9 agreement under the Commercial Code.

10 (c) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the
11 Code of Civil Procedure.

12 (d) A receiver performing the functions of a receiver, if the receivership estate
13 includes a firearm.

14 (e) A trustee in bankruptcy performing the duties of a trustee, if the bankruptcy
15 estate includes a firearm.

16 (f) An assignee for the benefit of creditors performing the functions of an
17 assignee, if the assignment includes a firearm.

18 (g) A transmutation of property consisting of a firearm pursuant to Section 850
19 of the Family Code.

20 (h) A firearm passing to a surviving spouse pursuant to Chapter 1 (commencing
21 with Section 13500) of Part 2 of Division 8 of the Probate Code.

22 (i) A firearm received by the family of a police officer or deputy sheriff from a
23 local agency pursuant to Section 50081 of the Government Code.

24 (j) The transfer of a firearm by a law enforcement agency to the person who
25 found the firearm where the delivery is to the person as the finder of the firearm
26 pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3
27 of the Civil Code.

28 **Comment.** Section 16990 continues former Section 12078(u)(2) without substantive change.

29 **§ 17000. “Personal handgun importer”**

30 17000. (a) As used in this part, “personal handgun importer” means an
31 individual who meets all of the following criteria:

32 (1) The individual is not a person licensed pursuant to Sections 26700 to 26915,
33 inclusive.

34 (2) The individual is not a licensed manufacturer of firearms pursuant to Chapter
35 44 (commencing with Section 921) of Title 18 of the United States Code.

36 (3) The individual is not a licensed importer of firearms pursuant to Chapter 44
37 (commencing with Section 921) of Title 18 of the United States Code and the
38 regulations issued pursuant thereto.

39 (4) The individual is the owner of a handgun.

40 (5) The individual acquired that handgun outside of California.

41 (6) The individual moved into this state on or after January 1, 1998, as a resident
42 of this state.

(7) The individual intends to possess that handgun within this state on or after January 1, 1998.

(8) The handgun was not delivered to the individual by a person licensed pursuant to Sections 26700 to 26915, inclusive, who delivered that firearm following the procedures set forth in Section 27540 and Sections 26700 to 26915, inclusive.

(9) The individual, while a resident of this state, had not previously reported ownership of that handgun to the Department of Justice in a manner prescribed by the department that included information concerning the individual and a description of the firearm.

(10) The handgun is not a firearm that is prohibited by [Section 12020(a)].

(11) The handgun is not an assault weapon.

(12) The handgun is not a machinegun.

(13) The person is 18 years of age or older.

(b) For purposes of paragraph (6) of subdivision (a):

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.

(2) In the case of a member of the Armed Forces of the United States, residency shall be deemed to be established when the individual was discharged from active service in this state.

Comment. Subdivision (a) of Section 17000 continues former Section 12001(n) without substantive change. For guidance on what constitutes an assault weapon, see Sections _____ (“assault weapon”), _____ (further clarification of “assault weapon”), and _____ (exemptions from definition of “assault weapon”). For guidance on what constitutes a machinegun, see Section 16880 (“machinegun”).

Subdivision (b) continues former Section 12001(o) without substantive change.

See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 17010. “Pistol”

17010. Use of the term “pistol” is governed by Section 16530.

Comment. Section 17010 is new. It is intended to help persons locate key rules relating to use of the term “pistol.”

§ 17020. “Principal place of employment or business”

17020. For purposes of this part, a city or county may be considered an applicant’s “principal place of employment or business” only if the applicant is physically present in the jurisdiction during a substantial part of the applicant’s working hours for purposes of that employment or business.

Comment. Section 17020 continues former Section 12050(a)(3) without substantive change.

§ 17030. “Prohibited area”

17030. As used in this part, “prohibited area” means any place where it is unlawful to discharge a weapon.

Comment. Section 17030 continues former Section 12031(f) without substantive change.

1 **§ 17070. “Responsible adult”**

2 17070. As used in this part, “responsible adult” means a person at least 21 years
3 of age who is not within a class of persons prohibited from owning or possessing a
4 firearm by virtue of [Section 12021 or 12021.1 of this code], or Section 8100 or
5 8103 of the Welfare and Institutions Code.

6 **Comment.** Section 17070 continues former Section 12101(e) without substantive change.

7 **§ 17080. “Revolver”**

8 17080. Use of the term “revolver” is governed by Section 16530.

9 **Comment.** Section 17080 is new. It is intended to help persons locate key rules relating to use
10 of the term “revolver.”

11 **§ 17090. “Rifle”**

12 17090. As used in [Sections 12001.5, 12020, 12029, 12316-12325], 16530,
13 16640, and 16870, and in subdivision (a) of Section 27555, “rifle” means a
14 weapon designed or redesigned, made or remade, and intended to be fired from the
15 shoulder and designed or redesigned and made or remade to use the energy of the
16 explosive in a fixed cartridge to fire only a single projectile through a rifled bore
17 for each single pull of the trigger.

18 **Comment.** Section 17090 continues former Sections 12020(c)(20) and 12323(d) without
19 substantive change. See also former Sections 12001(f), 12001.5, 12029, 12072(f)(1)(A), and
20 12087.6(c), which referred to former Section 12020.

21 **§ 17110. “Secure facility” for firearm storage by dealer**

22 17110. As used in Section 26890, “secure facility” means a building that meets
23 all of the following specifications:

24 (a) All perimeter doorways shall meet one of the following:

25 (1) A windowless steel security door equipped with both a dead bolt and a
26 doorknob lock.

27 (2) A windowed metal door that is equipped with both a dead bolt and a
28 doorknob lock. If the window has an opening of five inches or more measured in
29 any direction, the window shall be covered with steel bars of at least 1/2-inch
30 diameter or metal grating of at least 9 gauge affixed to the exterior or interior of
31 the door.

32 (3) A metal grate that is padlocked and affixed to the licensee’s premises
33 independent of the door and doorframe.

34 (b) All windows are covered with steel bars.

35 (c) Heating, ventilating, air-conditioning, and service openings are secured with
36 steel bars, metal grating, or an alarm system.

37 (d) Any metal grates have spaces no larger than six inches wide measured in any
38 direction.

39 (e) Any metal screens have spaces no larger than three inches wide measured in
40 any direction.

41 (f) All steel bars shall be no further than six inches apart.

1 **Comment.** Section 17110 continues former Section 12071(c)(2) without substantive change.
2 See also Sections 17111 (“secure facility” for firearm storage by manufacturer), 17112 (special
3 definition of “secure facility” for firearm storage by manufacturer producing fewer than 500
4 firearms per calendar year).

5 **§ 17111. “Secure facility” for firearm storage by manufacturer**

6 17111. Except as otherwise provided in Section 17112, as used in [Section
7 12086], “secure facility” means that the facility satisfies all of the following:

- 8 (a) The facility is equipped with a burglar alarm with central monitoring.
9 (b) All perimeter entries to areas in which firearms are stored other than doors,
10 including windows and skylights, are secured with steel window guards or an
11 audible, silent, or sonic alarm to detect entry.
12 (c) All perimeter doorways are designed in one of the following ways:
13 (1) A windowless steel security door equipped with both a deadbolt and a
14 doorknob lock.
15 (2) A windowed metal door equipped with both a deadbolt and a doorknob lock.
16 If the window has an opening of five inches or more measured in any direction,
17 the window is covered with steel bars of at least one-half inch diameter or metal
18 grating of at least nine gauge affixed to the exterior or interior of the door.
19 (3) A metal grate that is padlocked and affixed to the licensee’s premises
20 independent of the door and doorframe.
21 (4) Hinges and hasps attached to doors by welding, riveting, or bolting with nuts
22 on the inside of the door.
23 (5) Hinges and hasps installed so that they cannot be removed when the doors
24 are closed and locked.
25 (d) Heating, ventilating, air-conditioning, and service openings are secured with
26 steel bars, metal grating, or an alarm system.
27 (e) No perimeter metal grates are capable of being entered by any person.
28 (f) Steel bars used to satisfy the requirements of this section are not capable of
29 being entered by any person.
30 (g) Perimeter walls of rooms in which firearms are stored are constructed of
31 concrete or at least 10-gauge expanded steel wire mesh utilized along with typical
32 wood frame and drywall construction. If firearms are not stored in a vault, the
33 facility shall use an exterior security-type door along with a high security, single-
34 key deadbolt, or other door that is more secure. All firearms shall be stored in a
35 separate room away from any general living area or work area. Any door to the
36 storage facility shall be locked while unattended.
37 (h) Perimeter doorways, including the loading dock area, are locked at all times
38 when not attended by paid employees or contracted employees, including security
39 guards.
40 (i) Except when a firearm is currently being tested, any ammunition on the
41 premises is removed from all manufactured guns and stored in a separate and
42 locked room, cabinet, or box away from the storage area for the firearms.
43 Ammunition may be stored with a weapon only in a locked safe.

1 **Comment.** Section 17111 continues former Section 12086(d) without substantive change.
2 See Section 16520 (“firearm”). See also Sections 17110 (“secure facility” for firearm storage
3 by dealer), 17112 (special definition of “secure facility” for firearm storage by manufacturer
4 producing fewer than 500 firearms per calendar year).

5 **§ 17112. Special definition of “secure facility” for firearm storage by manufacturer**
6 **producing fewer than 500 firearms per calendar year**

7 17112. (a) For purposes of [Section 12086], any licensed manufacturer who
8 produces fewer than 500 firearms in a calendar year within this state may maintain
9 a “secure facility” by complying with all of the requirements described in Section
10 17111, or may design a security plan that is approved by the Department of Justice
11 or the federal Bureau of Alcohol, Tobacco, and Firearms.

12 (b) If a security plan is approved by the federal Bureau of Alcohol, Tobacco, and
13 Firearms, the approved plan, along with proof of approval, shall be filed with the
14 Department of Justice and the local police department. If there is no police
15 department, the filing shall be with the county sheriff’s office.

16 (c) If a security plan is approved by the Department of Justice, the approved
17 plan, along with proof of approval, shall be filed with the local police department.
18 If there is no police department, the filing shall be with the county sheriff’s office.

19 **Comment.** Section 17112 continues former Section 12086(e) without substantive change.
20 See Section 16520 (“firearm”). See also Sections 17110 (“secure facility” for firearm storage
21 by dealer), 17111 (“secure facility” for firearm storage by manufacturer).

22 **§ 17125. “Security Exemplar”**

23 17125. As used in this part, “Security Exemplar” has the same meaning as in
24 Section 922 of Title 18 of the United States Code.

25 **Comment.** With respect to the definition of “Security Exemplar,” Section 17125 continues the
26 first paragraph of former Section 12020(c)(22)(C) without substantive change.

27 **§ 17140. “Semiautomatic pistol”**

28 17140. As used in [Section 12126], “semiautomatic pistol” means a pistol with
29 an operating mode that uses the energy of the explosive in a fixed cartridge to
30 extract a fired cartridge and chamber a fresh cartridge with each single pull of the
31 trigger.

32 **Comment.** Section 17140 continues former Section 12126(e) without substantive change.
33 See Sections 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
34 “revolver”), 17010 (“pistol”).

35 **§ 17160. “Shobi-zue”**

36 17160. As used in this part, a “shobi-zue” means a staff, crutch, stick, rod, or
37 pole concealing a knife or blade within it, which may be exposed by a flip of the
38 wrist or by a mechanical action.

39 **Comment.** Section 17160 continues former Section 12020(c)(16) without substantive change.

1 **§ 17170. “Short-barreled rifle”**

2 17170. As used in [Sections 12001.5, 12020, 12029], 16530, and 16640, and in
3 Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4,
4 “short-barreled rifle” means any of the following:

- 5 (a) A rifle having a barrel or barrels of less than 16 inches in length.
6 (b) A rifle with an overall length of less than 26 inches.
7 (c) Any weapon made from a rifle (whether by alteration, modification, or
8 otherwise) if that weapon, as modified, has an overall length of less than 26 inches
9 or a barrel or barrels of less than 16 inches in length.
10 (d) Any device that may be readily restored to fire a fixed cartridge which, when
11 so restored, is a device defined in subdivisions (a) to (c), inclusive.
12 (e) Any part, or combination of parts, designed and intended to convert a device
13 into a device defined in subdivisions (a) to (c), inclusive, or any combination of
14 parts from which a device defined in subdivisions (a) to (c), inclusive, may be
15 readily assembled if those parts are in the possession or under the control of the
16 same person.

17 **Comment.** Section 17170 continues former Section 12020(c)(2) without substantive change.
18 See also former Sections 12001(f), 12001.5, 12029, and 12072(f)(1)(A), which used the same
19 definition of “short-barreled rifle.”

20 See Section 17090 (“rifle”).

21 **§ 17180. “Short-barreled shotgun”**

22 17180. As used in [Sections 12001.5, 12020, 12029], 16530, and 16640, and in
23 Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4,
24 “short-barreled shotgun” means any of the following:

- 25 (a) A firearm that is designed or redesigned to fire a fixed shotgun shell and has
26 a barrel or barrels of less than 18 inches in length.
27 (b) A firearm that has an overall length of less than 26 inches and that is
28 designed or redesigned to fire a fixed shotgun shell.
29 (c) Any weapon made from a shotgun (whether by alteration, modification, or
30 otherwise) if that weapon, as modified, has an overall length of less than 26 inches
31 or a barrel or barrels of less than 18 inches in length.
32 (d) Any device that may be readily restored to fire a fixed shotgun shell which,
33 when so restored, is a device defined in subdivisions (a) to (c), inclusive.
34 (e) Any part, or combination of parts, designed and intended to convert a device
35 into a device defined in subdivisions (a) to (c), inclusive, or any combination of
36 parts from which a device defined in subdivisions (a) to (c), inclusive, can be
37 readily assembled if those parts are in the possession or under the control of the
38 same person.

39 **Comment.** Section 17180 continues former Section 12020(c)(1) without substantive change.
40 See also former Sections 12001(f), 12001.5, 12029, and 12072(f)(1)(A), which used the same
41 definition of “short-barreled shotgun.”

42 See Sections 16520 (“firearm”), 17190 (“shotgun”).

1 **§ 17190. “Shotgun”**

2 17190. As used in [Sections 12001.5, 12020, 12029], 16530, 16640, and 16870,
3 and in subdivision (a) of Section 27555, “shotgun” means a weapon designed or
4 redesigned, made or remade, and intended to be fired from the shoulder and
5 designed or redesigned and made or remade to use the energy of the explosive in a
6 fixed shotgun shell to fire through a smooth bore either a number of projectiles
7 (ball shot) or a single projectile for each pull of the trigger.

8 **Comment.** Section 17190 continues former Section 12020(c)(21) without substantive change.
9 See also former Sections 12001(f), 12001.5, 12029, 12072(f)(1)(A), and 12087.6(c), which
10 referred to former Section 12020.

11 **§ 17200. “Shuriken”**

12 17200. As used in this part, a “shuriken” means any instrument, without handles,
13 consisting of a metal plate having three or more radiating points with one or more
14 sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond,
15 or other geometric shape, for use as a weapon for throwing.

16 **Comment.** Section 17200 continues former Section 12020(c)(11) without substantive change.

17 **§ 17210. “Silencer”**

18 17210. As used in [Sections 12500-12520], “silencer” means any device or
19 attachment of any kind designed, used, or intended for use in silencing,
20 diminishing, or muffling the report of a firearm. The term “silencer” also includes
21 any combination of parts, designed or redesigned, and intended for use in
22 assembling a silencer or fabricating a silencer and any part intended only for use in
23 assembly or fabrication of a silencer.

24 **Comment.** Section 17210 continues former Section 12500 without substantive change.

25 **§ 17220. “SKS rifle”**

26 17220. Notwithstanding [Section 12276(a)(11)], an “SKS rifle” under [Section
27 12281] means any SKS rifle commonly referred to as an “SKS Sporter” version,
28 manufactured to accept a detachable AK-47 magazine and imported into this state
29 and sold by a licensed gun dealer, or otherwise lawfully possessed in this state by
30 a resident of this state who is not a licensed gun dealer, between January 1, 1992,
31 and December 19, 1997.

32 **Comment.** Section 17220 continues former Section 12281(i) without substantive change.

33 **§ 17230. “Stun gun”**

34 17230. As used in this part, “stun gun” includes any item, except a taser, used or
35 intended to be used as either an offensive or defensive weapon capable of
36 temporarily immobilizing a person by the infliction of an electrical charge.

37 **Comment.** Section 17230 continues former Section 12650 without substantive change.

1 **§ 17235. “Switchblade knife”**

2 17235. As used in this part, “switchblade knife” means a knife having the
3 appearance of a pocketknife and includes a spring-blade knife, snap-blade knife,
4 gravity knife, or any other similar type knife, the blade or blades of which are two
5 or more inches in length and which can be released automatically by a flick of a
6 button, pressure on the handle, flip of the wrist or other mechanical device, or is
7 released by the weight of the blade or by any type of mechanism whatsoever.
8 “Switchblade knife” does not include a knife that opens with one hand utilizing
9 thumb pressure applied solely to the blade of the knife or a thumb stud attached to
10 the blade, provided that the knife has a detent or other mechanism that provides
11 resistance that must be overcome in opening the blade, or that biases the blade
12 back toward its closed position.

13 **Comment.** Section 17235 continues the second paragraph of former Section 653k without
14 substantive change.

15 **§ 17240. “Tear gas”**

16 17240. (a) As used in this part, “tear gas” applies to and includes any liquid,
17 gaseous or solid substance intended to produce temporary physical discomfort or
18 permanent injury through being vaporized or otherwise dispersed in the air.

19 (b) Notwithstanding subdivision (a), “tear gas” does not apply to, and does not
20 include, any substance registered as an economic poison as provided in Chapter 2
21 (commencing with Section 12751) of Division 7 of the Food and Agricultural
22 Code, provided that the substance is not intended to be used to produce discomfort
23 or injury to human beings.

24 **Comment.** Section 17240 continues former Section 12401 without substantive change.

25 **§ 17250. “Tear gas weapon”**

26 17250. As used in this part, “tear gas weapon” applies to and includes:

27 (a) Any shell, cartridge, or bomb capable of being discharged or exploded, when
28 the discharge or explosion will cause or permit the release or emission of tear gas.

29 (b) Any revolver, pistol, fountain pen gun, billy, or other form of device,
30 portable or fixed, intended for the projection or release of tear gas, except those
31 regularly manufactured and sold for use with firearm ammunition.

32 **Comment.** Section 17250 continues former Section 12402 without substantive change. See
33 also former Section 12601(b)(7), which used the same definition of “tear gas weapon.”

34 **§ 17270. “Unconventional pistol”**

35 17270. As used in this part, an “unconventional pistol” means a firearm with
36 both of the following characteristics:

37 (a) It does not have a rifled bore.

38 (b) It has a barrel or barrels of less than 18 inches in length or has an overall
39 length of less than 26 inches.

40 **Comment.** Section 17270 continues former Section 12020(c)(12) without substantive change.
41 See Sections 16520 (“firearm”), 17010 (“pistol”).

1 **§ 17280. “Undetectable firearm”**

2 17280. As used in this part, “undetectable firearm” means any weapon that
3 meets either of the following requirements:

4 (a) After removal of grips, stocks, and magazines, the weapon is not as
5 detectable as the Security Exemplar, by a walk-through metal detector calibrated
6 and operated to detect the Security Exemplar.

7 (b) Any major component of the weapon, as defined in Section 922 of Title 18
8 of the United States Code, when subjected to inspection by the types of X-ray
9 machines commonly used at airports, does not generate an image that accurately
10 depicts the shape of the component. Barium sulfate or other compounds may be
11 used in the fabrication of the component.

12 **Comment.** Section 17280 continues former Section 12020(c)(22)(A)-(B) without substantive
13 change. With respect to the definition of “major component,” Section 17280 also continues
14 former Section 12020(c)(22)(C) without substantive change.

15 See Sections 16520(a) & (f) (“firearm”), 17125 (“Security Exemplar”).

16 **§ 17290. “Undetectable knife”**

17 17290. As used in this part, “undetectable knife” means any knife or other
18 instrument, with or without a handguard, that satisfies all of the following
19 requirements:

20 (a) It is capable of ready use as a stabbing weapon that may inflict great bodily
21 injury or death.

22 (b) It is commercially manufactured to be used as a weapon.

23 (c) It is not detectable by a metal detector or magnetometer, either handheld or
24 otherwise, which is set at standard calibration.

25 **Comment.** Section 17290 continues the second sentence of former Section 12001.1(a) without
26 substantive change.

27 **§ 17300. “Unsafe handgun”**

28 17300. Use of the phrase “unsafe handgun” is governed by Section ____.

29 **Comment.** Section 17300 is new. It is intended to help persons locate the definition of “unsafe
30 handgun.”

31 **§ 17310. “Used firearm”**

32 17310. As used in this part, “used firearm” means a firearm that has been sold
33 previously at retail and is more than three years old.

34 **Comment.** Section 17310 continues the fourth paragraph of former Section 12070(b)(5)
35 without substantive change.

36 See Section 16520 (“firearm”).

37 **§ 17320. “Violent felony”**

38 17320. For purposes of [Section 12370] only, “violent felony” refers to the
39 specific crimes listed in subdivision (c) of Section 667.5, and to crimes defined
40 under the applicable laws of the United States or any other state, government, or

country that are reasonably equivalent to the crimes listed in subdivision (c) of Section 667.5.

Comment. Section 17320 continues former Section 12370(e) without substantive change.

§ 17330. “Wallet gun”

17330. As used in this part, “wallet gun” means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

Comment. Section 17330 continues former Section 12020(c)(4) without substantive change. See Section 16520 (“firearm”).

§ 17340. “Wholesaler”

17340. (a) As used in this part, “wholesaler” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Sections 26700 to 26915, inclusive, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

(b) “Wholesaler” shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Sections 26700 to 26915, inclusive, and the regulations issued pursuant thereto. A wholesaler also does not include a person dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

Comment. Section 17340 continues former Section 12001(h) without substantive change. See Sections 16520 (“firearm”), 16630 (“gunsmith”).

§ 17350. “Writing pen knife”

17350. As used in this part, “writing pen knife” means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

Comment. Section 17350 continues former Section 12020(c)(19) without substantive change.

§ 17360. “Zip gun”

17360. As used in this part, “zip gun” means any weapon or device that meets all of the following criteria:

1 (a) It was not imported as a firearm by an importer licensed pursuant to Chapter
2 44 (commencing with Section 921) of Title 18 of the United States Code and the
3 regulations issued pursuant thereto.

4 (b) It was not originally designed to be a firearm by a manufacturer licensed
5 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
6 States Code and the regulations issued pursuant thereto.

7 (c) No tax was paid on the weapon or device nor was an exemption from paying
8 tax on that weapon or device granted under Section 4181 and Subchapters F
9 (commencing with Section 4216) and G (commencing with Section 4221) of
10 Chapter 32 of Title 26 of the United States Code, as amended, and the regulations
11 issued pursuant thereto.

12 (d) It is made or altered to expel a projectile by the force of an explosion or
13 other form of combustion.

14 **Comment.** Section 17360 continues former Section 12020(c)(10) without substantive change.
15 See Section 16520 (“firearm”).

16 TITLE 2. WEAPONS GENERALLY

17 DIVISION 1. MISCELLANEOUS RULES RELATING TO WEAPONS 18 GENERALLY

19 § 17500. Bearing deadly weapon with intent to assault

20 17500. Every person having upon the person any deadly weapon, with intent to
21 assault another, is guilty of a misdemeanor.

22 **Comment.** Section 17500 continues former Section 12024 without substantive change.

23 § 17505. Advertising sale of prohibited weapon or device

24 17505. It shall be unlawful for any person, as defined in Section 16970, to
25 advertise the sale of any weapon or device, the possession of which is prohibited
26 by [Section 12020, 12220, 12280, 12320, 12321, 12520], 18710, or 20110, in any
27 newspaper, magazine, circular, form letter, or open publication that is published,
28 distributed, or circulated in this state, or on any billboard, card, label, or other
29 advertising medium, or by means of any other advertising device.

30 **Comment.** Section 17505 continues former Section 12020.5 without substantive change.

31 § 17510. Picketing with deadly weapon

32 17510. (a) Any person who does any of the following acts while engaged in
33 picketing, or other informational activities in a public place relating to a concerted
34 refusal to work, is guilty of a misdemeanor:

35 (1) Carries concealed upon the person, or within any vehicle which is under the
36 person’s control or direction, any pistol, revolver, or other firearm capable of
37 being concealed upon the person.

(2) Carries a loaded firearm upon the person or within any vehicle that is under the person's control or direction.

(3) Carries a deadly weapon.

(b) This section shall not be construed to authorize or ratify any picketing or other informational activities not otherwise authorized by law.

(c) The following provisions shall not be construed to authorize any conduct described in paragraph (1) of subdivision (a):

(1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5.

(2) Sections 25615 to 25655, inclusive.

(d) Sections 25900 to 26020, inclusive, shall not be construed to authorize any conduct described in paragraph (2) of subdivision (a).

Comment. Subdivision (a) of Section 17510 continues former Section 12590(a)(1)-(3) without substantive change.

With respect to the acts enumerated in subdivision (a), subdivision (b) continues former Section 12590(b) without substantive change. See also Section 830.95(b), which continues former Section 12590(b) with respect to picketing in the uniform of a peace officer.

Subdivisions (c) and (d) continue former Section 12590(c) without substantive change.

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver").

§ 17515. Officer carrying equipment authorized for enforcement of law or ordinance

17515. Nothing in any provision listed in Section 16580 prohibits a police officer, special police officer, peace officer, or law enforcement officer from carrying any equipment authorized for the enforcement of law or ordinance in any city or county.

Comment. With respect to "any equipment authorized for the enforcement of law or ordinance in any city or county," Section 17515 continues former Section 12002(a) without substantive change. The remainder of former Section 12002(a) is continued in Section 22295(a) without substantive change.

DIVISION 2. GENERALLY PROHIBITED WEAPONS

CHAPTER 1. EXEMPTIONS

§ 17700. Exemption for antique firearm

17700. The provisions listed in Section 16590 do not apply to any antique firearm.

Comment. Section 17700 continues the first sentence of former Section 12020(b)(5) without substantive change.

See Section 16170 ("antique firearm").

§ 17705. Exemption for firearm or ammunition constituting curio or relic

17705. (a) The provisions listed in Section 16590 do not apply to any firearm or ammunition that is a curio or relic as defined in Section 478.11 of Title 27 of the Code of Federal Regulations and that is in the possession of a person permitted to

1 possess the items under Chapter 44 (commencing with Section 921) of Title 18 of
2 the United States Code and the regulations issued pursuant thereto.

3 (b) Any person prohibited by [Section 12021, 12021.1, or 12101 of this code] or
4 Section 8100 or 8103 of the Welfare and Institutions Code from possessing
5 firearms or ammunition who obtains title to these items by bequest or intestate
6 succession may retain title for not more than one year, but actual possession of
7 these items at any time is punishable under [Section 12021, 12021.1, or 12101 of
8 this code] or Section 8100 or 8103 of the Welfare and Institutions Code. Within
9 the year, the person shall transfer title to the firearms or ammunition by sale, gift,
10 or other disposition. Any person who violates this section is in violation of the
11 applicable provision listed in Section 16590.

12 **Comment.** Section 17705 continues former Section 12020(b)(7) without substantive change.
13 See Section 16520 (“firearm”).

14 **§ 17710. Exemption for “any other weapon” in possession of person permitted to possess it**
15 **under federal Gun Control Act of 1968**

16 17710. (a) The provisions listed in Section 16590 do not apply to “any other
17 weapon” as defined in subsection (e) of Section 5845 of Title 26 of the United
18 States Code, which is in the possession of a person permitted to possess the
19 weapons under the federal Gun Control Act of 1968 (Public Law 90-618), as
20 amended, and the regulations issued pursuant thereto.

21 (b) Any person prohibited by [Section 12021, 12021.1, or 12101 of this code] or
22 Section 8100 or 8103 of the Welfare and Institutions Code from possessing these
23 weapons who obtains title to these weapons by bequest or intestate succession may
24 retain title for not more than one year, but actual possession of these weapons at
25 any time is punishable under [Section 12021, 12021.1, or 12101 of this code] or
26 Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the
27 person shall transfer title to the weapons by sale, gift, or other disposition. Any
28 person who violates this section is in violation of the applicable provision listed in
29 Section 16590.

30 (c) The exemption provided by this section does not apply to a pen gun.

31 **Comment.** Section 17710 continues former Section 12020(b)(8) without substantive change.

32 **§ 17715. Exemption for historical society, museum, or institutional collection**

33 17715. The provisions listed in Section 16590 do not apply to any instrument or
34 device that is possessed by a federal, state, or local historical society, museum, or
35 institutional collection that is open to the public if all of the following conditions
36 are satisfied:

37 (a) The instrument or device is properly housed.

38 (b) The instrument or device is secured from unauthorized handling.

39 (c) If the instrument or device is a firearm, it is unloaded.

40 **Comment.** Section 17715 continues former Section 12020(b)(9) without substantive change.
41 See Section 16520 (“firearm”).

1 **§ 17720. Exemption for motion picture, television, video production, or entertainment event**

2 17720. The provisions listed in Section 16590 do not apply to any instrument or
3 device, other than a short-barreled rifle or a short-barreled shotgun, which is
4 possessed or used during the course of a motion picture, television, or video
5 production or entertainment event by an authorized participant therein in the
6 course of making that production or event or by an authorized employee or agent
7 of the entity producing that production or event.

8 **Comment.** Section 17720 continues former Section 12020(b)(10) without substantive change.
9 See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

10 **§ 17725. Exemption for person who sells to historical society, museum, or institutional**
11 **collection, or for purposes of entertainment event**

12 17725. The provisions listed in Section 16590 do not apply to any instrument or
13 device, other than a short-barreled rifle or a short-barreled shotgun, which is sold
14 by, manufactured by, exposed or kept for sale by, possessed by, imported by, or
15 lent by a person who is in the business of selling instruments or devices listed in
16 Section 16590 solely to the entities referred to in Sections 17715 and 17720 when
17 engaging in transactions with those entities.

18 **Comment.** Section 17725 continues former Section 12020(b)(11) without substantive change.
19 See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

20 **§ 17730. Exemption for law enforcement or person who sells to law enforcement**

21 17730. The provisions listed in Section 16590 do not apply to any of the
22 following:

23 (a) The sale to, possession of, or purchase of any weapon, device, or
24 ammunition, other than a short-barreled rifle or a short-barreled shotgun, by any
25 federal, state, county, city and county, or city agency that is charged with the
26 enforcement of any law for use in the discharge of its official duties.

27 (b) The possession of any weapon, device, or ammunition, other than a short-
28 barreled rifle or short-barreled shotgun, by any peace officer of any federal, state,
29 county, city and county, or city agency that is charged with the enforcement of any
30 law, when the officer is on duty and the use is authorized by the agency and is
31 within the course and scope of the officer’s duties.

32 (c) Any weapon, device, or ammunition, other than a short-barreled rifle or a
33 short-barreled shotgun, that is sold by, manufactured by, exposed or kept for sale
34 by, possessed by, imported by, or lent by, any person who is in the business of
35 selling weapons, devices, and ammunition listed in Section 16590 solely to the
36 entities referred to in subdivision (a) when engaging in transactions with those
37 entities.

38 **Comment.** Subdivisions (a) and (b) of Section 17730 continue former Section 12020(b)(12)
39 without substantive change.

40 Subdivision (c) continues former Section 12020(b)(13) without substantive change.
41 See Sections 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

1 **§ 17735. Exemption for transportation of non-firearm to law enforcement for disposition**
2 **according to law**

3 17735. The provisions listed in Section 16590 do not apply to any instrument,
4 ammunition, weapon, or device that is not a firearm and is found and possessed by
5 a person who meets all of the following:

6 (a) The person is not prohibited from possessing firearms or ammunition under
7 [Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of
8 this code] or Section 8100 or 8103 of the Welfare and Institutions Code.

9 (b) The person possessed the instrument, ammunition, weapon, or device no
10 longer than was necessary to deliver or transport it to a law enforcement agency
11 for that agency's disposition according to law.

12 (c) If the person is transporting the item, the person is transporting it to a law
13 enforcement agency for disposition according to law.

14 **Comment.** Section 17735 continues former Section 12020(b)(16) without substantive change.
15 See Section 16520 ("firearm").

16 **§ 17740. Exemption for transportation of firearm to law enforcement for disposition**
17 **according to law**

18 17740. The provisions listed in Section 16590 do not apply to any firearm, other
19 than a short-barreled rifle or short-barreled shotgun, which is found and possessed
20 by a person who meets all of the following:

21 (a) The person is not prohibited from possessing firearms or ammunition under
22 [Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of
23 this code] or Section 8100 or 8103 of the Welfare and Institutions Code.

24 (b) The person possessed the firearm no longer than was necessary to deliver or
25 transport it to a law enforcement agency for that agency's disposition according to
26 law.

27 (c) If the person is transporting the firearm, the person is transporting it to a law
28 enforcement agency for disposition according to law.

29 (d) Before transporting the firearm to a law enforcement agency, the person has
30 given prior notice to that law enforcement agency that the person is transporting
31 the firearm to that law enforcement agency for disposition according to law.

32 (e) The firearm is transported in a locked container as defined in Section 16850.

33 **Comment.** Section 17740 continues former Section 12020(b)(17) without substantive change.
34 See Sections 16520 ("firearm"), 17170 ("short-barreled rifle"), 17180 ("short-barreled
35 shotgun").

36 **§ 17745. Exemption for possession by forensic laboratory**

37 17745. The provisions listed in Section 16590 do not apply to the possession of
38 any weapon, device, or ammunition by a forensic laboratory or by any authorized
39 agent or employee thereof in the course and scope of the person's authorized
40 activities.

41 **Comment.** Section 17745 continues former Section 12020(b)(18) without substantive change.

1 CHAPTER 2. MISCELLANEOUS PROVISIONS

2 **§ 17800. Distinct and separate offense**

3 17800. For purposes of the provisions listed in Section 16590, a violation as to
4 each firearm, weapon, or device enumerated in any of those provisions shall
5 constitute a distinct and separate offense.

6 **Comment.** Section 17800 continues former Section 12001(*l*) without substantive change.
7 See Section 16520 (“firearm”).

8 DIVISION 3. SURRENDER, DISPOSAL, AND ENJOINING OF
9 WEAPONS CONSTITUTING A NUISANCE

10 **§ 18000. Surrender of specified weapons constituting nuisance**

11 18000. (a) Any weapon described in Section 19190, 21390, or 21590, or in
12 subdivision (a) of Section 25700, or, upon conviction of the defendant or upon a
13 juvenile court finding that an offense that would be a misdemeanor or felony if
14 committed by an adult was committed or attempted by the juvenile with the use of
15 a firearm, any weapon described in [Section 12028(b)], shall be surrendered to one
16 of the following:

17 (1) The sheriff of a county.

18 (2) The chief of police or other head of a municipal police department of any
19 city or city and county.

20 (3) The chief of police of any campus of the University of California or the
21 California State University.

22 (4) The Commissioner of the California Highway Patrol.

23 (b) For purposes of this section, the Commissioner of the California Highway
24 Patrol shall receive only weapons that were confiscated by a member of the
25 California Highway Patrol.

26 **Comment.** Subdivision (a) of Section 18000 continues the first sentence of former Section
27 12028(c) without substantive change.

28 Subdivision (b) continues the second sentence of former Section 12028(c) without substantive
29 change.

30 See Section 16520 (“firearm”).

31 **§ 18005. Disposal of weapons constituting nuisance**

32 18005. (a) An officer to whom weapons are surrendered under Section 18000,
33 except upon the certificate of a judge of a court of record, or of the district
34 attorney of the county, that the retention thereof is necessary or proper to the ends
35 of justice, may annually, between the 1st and 10th days of July, in each year, offer
36 the weapons, which the officer in charge of them considers to have value with
37 respect to sporting, recreational, or collection purposes, for sale at public auction
38 to persons licensed pursuant to Sections 26700 to 26915, inclusive, to engage in
39 businesses involving any weapon purchased.

1 (b) If any weapon has been stolen and is thereafter recovered from the thief or
2 the thief's transferee, or is used in a manner as to constitute a nuisance under
3 Section [12028(b)], 19190, 21390, or 21590, or subdivision (a) of Section 25700
4 without the prior knowledge of its lawful owner that it would be so used, it shall
5 not be offered for sale under subdivision (a) but shall be restored to the lawful
6 owner, as soon as its use as evidence has been served, upon the lawful owner's
7 identification of the weapon and proof of ownership, and after the law
8 enforcement agency has complied with [Section 12021.3].

9 (c) If, under this section, a weapon is not of the type that can be sold to the
10 public, generally, or is not sold under subdivision (b), the weapon, in the month of
11 July, next succeeding, or sooner, if necessary to conserve local resources,
12 including space and utilization of personnel who maintain files and security of
13 those weapons, shall be destroyed so that it can no longer be used as a weapon
14 subject to surrender under Section 18000, except upon the certificate of a judge of
15 a court of record, or of the district attorney of the county, that the retention of it is
16 necessary or proper to the ends of justice.

17 (d) No stolen weapon shall be sold or destroyed pursuant to subdivision (b) or
18 (c) unless reasonable notice is given to its lawful owner, if the lawful owner's
19 identity and address can be reasonably ascertained.

20 **Comment.** Subdivision (a) of Section 18005 continues the third sentence of former Section
21 12028(c) without substantive change.

22 Subdivision (b) continues the fourth sentence of former Section 12028(c) without substantive
23 change.

24 Subdivision (c) continues former Section 12028(d) without substantive change.

25 Subdivision (d) continues former Section 12028(f) without substantive change.

26 § 18010. Treatment of other weapons constituting nuisance

27 18010. (a) The Attorney General, district attorney, or city attorney may bring an
28 action to enjoin the manufacture of, importation of, keeping for sale of, offering or
29 exposing for sale, giving, lending, or possession of, any item that constitutes a
30 nuisance under [Section 12029].

31 (b) These weapons shall be subject to confiscation and summary destruction
32 whenever found within the state.

33 (c) These weapons shall be destroyed in the same manner described in Section
34 18005, except that upon the certification of a judge or of the district attorney that
35 the ends of justice will be served thereby, the weapon shall be preserved until the
36 necessity for its use ceases.

37 **Comment.** Subdivision (a) of Section 18010 continues the end of the first sentence of former
38 Section 12029 without substantive change.

39 Subdivision (b) continues the second sentence of former Section 12029 without substantive
40 change.

41 Subdivision (c) continues the third sentence of former Section 12029 without substantive
42 change.

DIVISION 4. SEIZURE OF FIREARM OR OTHER DEADLY
WEAPON AT SCENE OF DOMESTIC VIOLENCE

CHAPTER 1. SEIZURE AND SUBSEQUENT PROCEDURES

§ 18250. Seizure of firearm or other deadly weapon at scene of domestic violence

18250. If any of the following persons is at the scene of a domestic violence incident involving a threat to human life or a physical assault, that person shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present:

(a) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1.

(b) A peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2.

(c) A member of the University of California Police Department, as defined in subdivision (b) of Section 830.2.

(d) An officer listed in Section 830.6, while acting in the course and scope of the officer's employment as a peace officer.

(e) A member of a California State University Police Department, as defined in subdivision (c) of Section 830.2.

(f) A peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2.

(g) A peace officer, as defined in subdivision (d) of Section 830.31.

(h) A peace officer, as defined in subdivisions (a) and (b) of Section 830.32.

(i) A peace officer, as defined in Section 830.5.

Comment. Section 18250 continues the first sentence of former Section 12028.5(b) without substantive change.

For what constitutes a domestic violence incident, see Sections 16120 ("abuse"), 16490 ("domestic violence"). For what constitutes a deadly weapon, see Section 16430 ("deadly weapon"); see also Section 16520 ("firearm").

See Sections 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

§ 18255. Receipt for weapon

18255. (a) Upon taking custody of a firearm or other deadly weapon pursuant to this division, the officer shall give the owner or person who possessed the firearm a receipt.

1 (b) The receipt shall describe the firearm or other deadly weapon and list any
2 identification or serial number on the firearm.

3 (c) The receipt shall indicate where the firearm or other deadly weapon can be
4 recovered, the time limit for recovery as required by this division, and the date
5 after which the owner or possessor can recover the firearm or other deadly
6 weapon.

7 **Comment.** Subdivision (a) of Section 18255 continues the second sentence of former Section
8 12028.5(b) without substantive change.

9 Subdivision (b) continues the third sentence of former Section 12028.5(b) without substantive
10 change.

11 Subdivision (c) continues the fourth sentence of former Section 12028.5(b) without substantive
12 change.

13 For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”). See also Section
14 16520 (“firearm”).

15 See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence),
16 18260 (delivery of deadly weapon seized by peace officer for community college or school
17 district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of
18 deadly weapon held longer than one year), 18500 (no liability for act in good faith under this
19 division). For procedures applicable when a law enforcement agency has reasonable cause to
20 believe that return of a weapon would endanger the victim of a domestic violence incident or a
21 person who reported the incident, see Sections 18400-18420.

22 **§ 18260. Delivery of deadly weapon seized by peace officer for community college or school**
23 **district**

24 18260. Any peace officer, as defined in subdivisions (a) and (b) of Section
25 830.32, who takes custody of a firearm or deadly weapon pursuant to this division,
26 shall deliver the firearm within 24 hours to the city police department or county
27 sheriff’s office in the jurisdiction where the college or school is located.

28 **Comment.** Section 18260 continues former Section 12028.5(c) without substantive change.

29 For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”). See also Section
30 16520 (“firearm”).

31 See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence),
32 18255 (receipt for weapon), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale
33 or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good
34 faith under this division). For procedures applicable when a law enforcement agency has
35 reasonable cause to believe that return of a weapon would endanger the victim of a domestic
36 violence incident or a person who reported the incident, see Sections 18400-18420.

37 **§ 18265. Holding period**

38 18265. (a) No firearm or other deadly weapon taken into custody pursuant to
39 this division shall be held less than 48 hours.

40 (b) Except as provided in 18400, if a firearm or other deadly weapon is not
41 retained for use as evidence related to criminal charges brought as a result of the
42 domestic violence incident or is not retained because it was illegally possessed, the
43 firearm or other deadly weapon shall be made available to the owner or person
44 who was in lawful possession 48 hours after the seizure, or as soon thereafter as
45 possible, but no later than five business days after the owner or person who was in
46 lawful possession demonstrates compliance with [Section 12021.3].

(c) In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within five business days after the initial seizure, except as provided in Section 18270, the court shall allow reasonable attorney's fees to the prevailing party.

Comment. Subdivision (a) of Section 18265 continues the fifth sentence of former Section 12028.5(b) without substantive change.

Subdivision (b) continues the sixth sentence of former Section 12028.5(b) without substantive change.

Subdivision (c) continues the seventh sentence of former Section 12028.5(b) without substantive change.

For what constitutes a domestic violence incident, see Sections 16120 ("abuse"), 16490 ("domestic violence"). For what constitutes a deadly weapon, see Section 16430 ("deadly weapon"); see also Section 16520 ("firearm").

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

§ 18270. Return of stolen weapon

18270. If a firearm or other deadly weapon has been stolen and has been taken into custody pursuant to this division, it shall be restored to the lawful owner upon satisfaction of all of the following conditions:

(a) Its use for evidence has been served.

(b) The owner identifies the firearm or other deadly weapon and provides proof of ownership.

(c) The law enforcement agency has complied with [Section 12021.3].

Comment. Section 18270 continues former Section 12028.5(d) without substantive change.

For what constitutes a deadly weapon, see Section 16430 ("deadly weapon"); see also Section 16520 ("firearm").

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

§ 18275. Sale or destruction of deadly weapon held longer than one year

18275. (a) Any firearm or other deadly weapon that has been taken into custody and held by any of the following law enforcement authorities for longer than 12 months, and has not been recovered by the owner or person who had lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in Section 18005:

(1) A police, university police, or sheriff's department.

(2) A marshal's office.

(3) A peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2.

(4) A peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2.

(5) A peace officer, as defined in subdivision (d) of Section 830.31.

(6) A peace officer, as defined in Section 830.5.

(b) If a firearm or other deadly weapon is not recovered within 12 months due to an extended hearing process as provided in Section 18420, it is not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

Comment. Section 18275 continues former Section 12028.5(e) without substantive change.

For what constitutes a deadly weapon, see Section 16430 ("deadly weapon"); see also Section 16520 ("firearm").

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

CHAPTER 2. PROCEDURE WHERE AGENCY BELIEVES RETURN OF WEAPON WOULD CREATE DANGER

§ 18400. Petition to determine whether weapon should be returned

18400. (a) When a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon seized under this division would be likely to result in endangering the victim or the person who reported the assault or threat, the agency shall so advise the owner of the firearm or other deadly weapon, and within 60 days of the date of seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(b) The law enforcement agency may make an ex parte application stating good cause for an order extending the time to file a petition.

(c) Including any extension of time granted in response to an ex parte request, a petition must be filed within 90 days of the date of seizure of the firearm or other deadly weapon.

Comment. Section 18400 continues former Section 12028.5(f) without substantive change.

For what constitutes a deadly weapon, see Section 16430 ("deadly weapon"); see also Section 16520 ("firearm").

See Sections 18405 (notice of petition), 18410 (hearing on petition), 18415 (order of default), 18420 (petition for second hearing).

See also Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen

1 weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no
2 liability for act in good faith under this division).

3 **§ 18405. Notice of petition**

4 18405. (a) If a petition is filed under Section 18400, the law enforcement agency
5 shall inform the owner or person who had lawful possession of the firearm or other
6 deadly weapon, at that person's last known address, by registered mail, return
7 receipt requested, that the person has 30 days from the date of receipt of the notice
8 to respond to the court clerk to confirm the person's desire for a hearing, and that
9 the failure to respond shall result in a default order forfeiting the confiscated
10 firearm or other deadly weapon.

11 (b) For purposes of this section, the person's last known address shall be
12 presumed to be the address provided to the law enforcement officer by that person
13 at the time of the family violence incident.

14 (c) In the event the person whose firearm or other deadly weapon was seized
15 does not reside at the last address provided to the agency, the agency shall make a
16 diligent, good faith effort to learn the whereabouts of the person and to comply
17 with these notification requirements.

18 **Comment.** Section 18405 continues former Section 12028.5(g) without substantive change.
19 For what constitutes a deadly weapon, see Section 16430 ("deadly weapon"); see also Section
20 16520 ("firearm").

21 See Sections 18400 (petition to determine whether weapon should be returned), 18410 (hearing
22 on petition), 18415 (order of default), 18420 (petition for second hearing).

23 See also Sections 16120 ("abuse"), 16490 ("domestic violence"), 18250 (seizure of firearm or
24 other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery
25 of deadly weapon seized by peace officer for community college or school district), 18265
26 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon
27 held longer than one year), 18500 (no liability for act in good faith under this division).

28 **§ 18410. Hearing on petition**

29 18410. (a) If the person who receives a petition under Section 18405 requests a
30 hearing, the court clerk shall set a hearing no later than 30 days from receipt of
31 that request.

32 (b) The court clerk shall notify the person, the law enforcement agency
33 involved, and the district attorney of the date, time, and place of the hearing.

34 (c) Unless it is shown by a preponderance of the evidence that the return of the
35 firearm or other deadly weapon would result in endangering the victim or the
36 person reporting the assault or threat, the court shall order the return of the firearm
37 or other deadly weapon and shall award reasonable attorney's fees to the
38 prevailing party.

39 **Comment.** Section 18410 continues former Section 12028.5(h) without substantive change.
40 For what constitutes a deadly weapon, see Section 16430 ("deadly weapon"); see also Section
41 16520 ("firearm").

42 See Sections 18400 (petition to determine whether weapon should be returned), 18405 (notice
43 of petition), 18415 (order of default), 18420 (petition for second hearing).

44 See also Sections 16120 ("abuse"), 16490 ("domestic violence"), 18250 (seizure of firearm or
45 other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery

1 of deadly weapon seized by peace officer for community college or school district), 18265
2 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon
3 held longer than one year), 18500 (no liability for act in good faith under this division).

4 **§ 18415. Order of default**

5 18415. If the person who receives a petition under Section 18405 does not
6 request a hearing or does not otherwise respond within 30 days of the receipt of
7 the notice, the law enforcement agency may file a petition for an order of default
8 and may dispose of the firearm or other deadly weapon as provided in Section
9 18005.

10 **Comment.** Section 18415 continues former Section 12028.5(i) without substantive change.

11 For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section
12 16520 (“firearm”).

13 See Sections 18400 (petition to determine whether weapon should be returned), 18405 (notice
14 of petition), 18410 (hearing on petition), 18420 (petition for second hearing).

15 See also Sections 16120 (“abuse”), 16490 (“domestic violence”), 18250 (seizure of firearm or
16 other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery
17 of deadly weapon seized by peace officer for community college or school district), 18265
18 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon
19 held longer than one year), 18500 (no liability for act in good faith under this division).

20 **§ 18420. Petition for second hearing**

21 18420. (a) If, at a hearing under Section 18410, the court does not order the
22 return of the firearm or other deadly weapon to the owner or person who had
23 lawful possession, that person may petition the court for a second hearing within
24 12 months from the date of the initial hearing.

25 (b) If there is a petition for a second hearing, unless it is shown by clear and
26 convincing evidence that the return of the firearm or other deadly weapon would
27 result in endangering the victim or the person reporting the assault or threat, the
28 court shall order the return of the firearm or other deadly weapon and shall award
29 reasonable attorney’s fees to the prevailing party.

30 (c) If the owner or person who had lawful possession does not petition the court
31 within this 12-month period for a second hearing or is unsuccessful at the second
32 hearing in gaining return of the firearm or other deadly weapon, the firearm or
33 other deadly weapon may be disposed of as provided in Section 18005.

34 **Comment.** Section 18420 continues former Section 12028.5(j) without substantive change.

35 For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section
36 16520 (“firearm”).

37 See Sections 18400 (petition to determine whether weapon should be returned), 18405 (notice
38 of petition), 18410 (hearing on petition), 18415 (order of default).

39 See also Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic
40 violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer
41 for community college or school district), 18265 (holding period), 18270 (return of stolen
42 weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no
43 liability for act in good faith under this division).

CHAPTER 3. LIABILITY

§ 18500. No liability for act in good faith under this division

18500. The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this division.

Comment. Section 18500 continues former Section 12028.5(k) without substantive change.

DIVISION 5. DESTRUCTIVE DEVICES, EXPLOSIVES, AND
SIMILAR WEAPONS

CHAPTER 1. DESTRUCTIVE DEVICES AND EXPLOSIVES GENERALLY

Article 1. Prohibited Acts

§ 18710. Unlawful possession of destructive device other than fixed ammunition greater than .60 caliber

18710. (a) Except as provided by this chapter, any person, firm, or corporation who, within this state, possesses any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, is guilty of a public offense.

(b) A person, firm, or corporation who is convicted of an offense under subdivision (a) shall be punished by imprisonment in the county jail for a term not to exceed one year, or in state prison, or by a fine not to exceed ten thousand dollars (\$10,000), or by both this fine and imprisonment.

Comment. Section 18710 continues former Section 12303 without substantive change.
See Section 16460 (“destructive device”).

§ 18715. Reckless or malicious possession of destructive device or explosive in public place

18715. (a) Every person who recklessly or maliciously has in possession any destructive device or any explosive in any of the following places is guilty of a felony:

(1) On a public street or highway.

(2) In or near any theater, hall, school, college, church, hotel, or other public building.

(3) In or near any private habitation.

(4) In, on, or near any aircraft, railway passenger train, car, cable road, cable car, or vessel engaged in carrying passengers for hire.

(5) In, on, or near any other public place ordinarily passed by human beings.

(b) An offense under subdivision (a) is punishable by imprisonment in the state prison for a period of two, four, or six years.

Comment. Section 18715 continues former Section 12303.2 without substantive change.
See Sections 16460 (“destructive device”), 16510 (“explosive”).

1 **§ 18720. Possession of materials with intent to create destructive device or explosive**

2 18720. Every person who possesses any substance, material, or any combination
3 of substances or materials, with the intent to make any destructive device or any
4 explosive without first obtaining a valid permit to make that destructive device or
5 explosive, is guilty of a felony, and is punishable by imprisonment in the state
6 prison for two, three, or four years.

7 **Comment.** Section 18720 continues former Section 12312 without substantive change.

8 See Sections 16460 (“destructive device”), 16510 (“explosive”).

9 **§ 18725. Destructive device or explosive on vessel, aircraft, or other vehicle**

10 18725. Every person who willfully does any of the following is guilty of a
11 felony and is punishable by imprisonment in the state prison for two, four, or six
12 years:

13 (a) Carries any destructive device or any explosive on any vessel, aircraft, car, or
14 other vehicle that transports passengers for hire.

15 (b) While on board any vessel, aircraft, car, or other vehicle that transports
16 passengers for hire, places or carries any destructive device or any explosive in
17 any hand baggage, roll, or other container.

18 (c) Places any destructive device or any explosive in any baggage that is later
19 checked with any common carrier.

20 **Comment.** Section 18725 continues former Section 12303.1 without substantive change.

21 See Sections 16460 (“destructive device”), 16510 (“explosive”).

22 **§ 18730. Sale or transportation of destructive device other than fixed ammunition greater**
23 **than .60 caliber**

24 18730. Except as provided by this chapter, any person, firm, or corporation who,
25 within this state, sells, offers for sale, or knowingly transports any destructive
26 device, other than fixed ammunition of a caliber greater than .60 caliber, is guilty
27 of a felony and is punishable by imprisonment in the state prison for two, three, or
28 four years.

29 **Comment.** Section 18730 continues former Section 12303.6 without substantive change.

30 See Section 16460 (“destructive device”).

31 **§ 18735. Sale, possession, or transport of fixed ammunition greater than .60 caliber**

32 18735. (a) Except as provided by this chapter, any person, firm, or corporation
33 who, within this state, sells, offers for sale, possesses or knowingly transports any
34 fixed ammunition of a caliber greater than .60 caliber is guilty of a public offense.

35 (b) Upon conviction of an offense under subdivision (a), a person, firm, or
36 corporation shall be punished by imprisonment in the county jail for a term not to
37 exceed six months or by a fine not to exceed one thousand dollars (\$1,000), or by
38 both this fine and imprisonment.

39 (c) A second or subsequent conviction shall be punished by imprisonment in the
40 county jail for a term not to exceed one year, or by imprisonment in the state

1 prison, or by a fine not to exceed three thousand dollars (\$3,000), or by both this
2 fine and imprisonment.

3 **Comment.** Section 18735 continues former Section 12304 without substantive change.

4 A conviction under former Section 12304 counts as a prior conviction in determining the
5 appropriate punishment under this section. See Section 16015 (determining existence of prior
6 conviction).

7 **§ 18740. Use or attempted use of destructive device or explosive with intent to cause fear or**
8 **harm**

9 18740. Every person who possesses, explodes, ignites, or attempts to explode or
10 ignite any destructive device or any explosive with intent to injure, intimidate, or
11 terrify any person, or with intent to wrongfully injure or destroy any property, is
12 guilty of a felony, and shall be punished by imprisonment in the state prison for a
13 period of three, five, or seven years.

14 **Comment.** Section 18740 continues former Section 12303.3 without substantive change.

15 See Sections 16460 (“destructive device”), 16510 (“explosive”).

16 **§ 18745. Use or attempted use of destructive device or explosive with intent to commit**
17 **murder**

18 18745. Every person who explodes, ignites, or attempts to explode or ignite any
19 destructive device or any explosive with intent to commit murder is guilty of a
20 felony, and shall be punished by imprisonment in the state prison for life with the
21 possibility of parole.

22 **Comment.** Section 18745 continues former Section 12308 without substantive change.

23 See Sections 16460 (“destructive device”), 16510 (“explosive”).

24 **§ 18750. Willful and malicious use of destructive device or explosive resulting in bodily**
25 **injury**

26 18750. Every person who willfully and maliciously explodes or ignites any
27 destructive device or any explosive that causes bodily injury to a person is guilty
28 of a felony, and shall be punished by imprisonment in the state prison for a period
29 of five, seven, or nine years.

30 **Comment.** Section 18750 continues former Section 12309 without substantive change.

31 See Sections 16460 (“destructive device”), 16510 (“explosive”).

32 **§ 18755. Willful and malicious use of destructive device or explosive resulting in death,**
33 **mayhem, or great bodily injury**

34 18755. (a) Every person who willfully and maliciously explodes or ignites any
35 destructive device or any explosive that causes the death of any person is guilty of
36 a felony, and shall be punished by imprisonment in the state prison for life without
37 the possibility of parole.

38 (b) Every person who willfully and maliciously explodes or ignites any
39 destructive device or any explosive that causes mayhem or great bodily injury to
40 any person is guilty of a felony, and shall be punished by imprisonment in the state
41 prison for life.

Comment. Section 18755 continues former Section 12310 without substantive change.
See Sections 16460 (“destructive device”), 16510 (“explosive”).

§ 18780. No probation or suspension of sentence

18780. A person convicted of a violation of this chapter shall not be granted probation, and the execution of the sentence imposed upon that person shall not be suspended by the court.

Comment. Section 18780 continues former Section 12311 without substantive change.

Article 2. Exemptions

§ 18800. Use of destructive device or explosive by law enforcement, military, or firefighter

18800. (a) Nothing in this chapter prohibits the sale to, purchase by, or possession, transportation, storage, or use of, a destructive device or explosive by any of the following:

(1) Any peace officer listed in Section 830.1 or 830.2, or any peace officer in the Department of Justice authorized by the Attorney General, while on duty and acting within the scope and course of employment.

(2) Any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of employment.

(b) Nothing in this chapter prohibits the sale to, or the purchase, possession, transportation, storage, or use by any person who is a regularly employed and paid officer, employee, or member of a fire department or fire protection or firefighting agency of the federal government, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state, while on duty and acting within the scope and course of employment, of any equipment used by that department or agency in the course of fire suppression.

Comment. Section 18800 continues former Section 12302 without substantive change.
See Sections 16460 (“destructive device”), 16510 (“explosive”).

Article 3. Permit and Inspection

§ 18900. Permit for destructive device

18900. (a) Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of that business from the Department of Justice.

(b) Any person, firm, or corporation not mentioned in subdivision (a) shall obtain a permit from the Department of Justice in order to possess or transport any destructive device. No permit shall be issued to any person who meets any of the following criteria:

(1) Has been convicted of any felony.

(2) Is addicted to the use of any narcotic drug.

1 (3) Is a person in a class prohibited by Section 8100 or 8103 of the Welfare and
2 Institutions Code or [Section 12021 or 12021.1] of this code.

3 (c) An application for a permit shall comply with all of the following:

4 (1) It shall be filed in writing.

5 (2) It shall be signed by the applicant if an individual, or by a member or officer
6 qualified to sign if the applicant is a firm or corporation.

7 (3) It shall state the name, business in which engaged, business address, and a
8 full description of the use to which the destructive devices are to be put.

9 (d) Applications and permits shall be uniform throughout the state on forms
10 prescribed by the Department of Justice.

11 **Comment.** Subdivision (a) of Section 18900 continues former Section 12305(a) without
12 substantive change.

13 Subdivision (b) continues former Section 12305(b) without substantive change.

14 Subdivision (c) continues former Section 12305(c) without substantive change.

15 Subdivision (d) continues former Section 12305(d) without substantive change.

16 See Section 16460 (“destructive device”).

17 **§ 18905. Permit fees and renewal process**

18 18905. (a) Each applicant for a permit under this article shall pay at the time of
19 filing the application a fee not to exceed the application processing costs of the
20 Department of Justice.

21 (b) A permit granted under this article may be renewed one year from the date of
22 issuance, and annually thereafter, upon the filing of a renewal application and the
23 payment of a permit renewal fee not to exceed the application processing costs of
24 the Department of Justice.

25 (c) After the department establishes fees sufficient in amount to cover
26 processing costs, the amount of the fees shall only increase at a rate not to exceed
27 the legislatively approved cost-of-living adjustment for the department.

28 **Comment.** Section 18905 continues former Section 12305(e) without substantive change.

29 **§ 18910. Inspection by Department of Justice**

30 18910. (a) Except as provided in subdivision (b), the Department of Justice
31 shall, for every person, firm, or corporation to whom a permit is issued under this
32 article, annually conduct an inspection for security and safe storage purposes, and
33 to reconcile the inventory of destructive devices.

34 (b) A person, firm, or corporation with an inventory of fewer than five devices
35 that require any Department of Justice permit shall be subject to an inspection for
36 security and safe storage purposes, and to reconcile inventory, once every five
37 years, or more frequently if determined by the department.

38 **Comment.** Section 18910 continues former Section 12305(f)-(g) without substantive change.

39 See Section 16460 (“destructive device”).

Article 4. Destructive Device Constituting Nuisance

§ 19000. Destructive device constituting nuisance

19000. (a) Possession of any destructive device in violation of this chapter is a public nuisance.

(b) The Attorney General or district attorney of any city, county, or city and county may bring an action in the superior court to enjoin the possession of any destructive device.

(c) Any destructive device found to be in violation of this chapter shall be surrendered to the Department of Justice, or to the sheriff or chief of police, if the sheriff or chief of police has elected to perform the services required by this section. The department, sheriff, or chief of police shall destroy the destructive device so as to render it unusable and unrepairable as a destructive device, except upon the filing of a certificate with the department by a judge or district attorney stating that the preservation of the destructive device is necessary to serve the ends of justice.

Comment. Section 19000 continues former Section 12307 without substantive change. See Section 16460 (“destructive device”).

CHAPTER 2. EXPLOSIVE SUBSTANCE OTHER THAN FIXED AMMUNITION

§ 19100. Carrying concealed explosive substance other than fixed ammunition

19100. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2, any person in this state who carries concealed upon the person any explosive substance, other than fixed ammunition, is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. Section 19100 continues former Section 12020(a)(3) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See also Sections 17800 (distinct and separate offense), 19190 (concealed explosive substance constituting nuisance).

§ 19190. Concealed explosive substance constituting nuisance

19190. The unlawful concealed carrying upon the person of any explosive substance other than fixed ammunition, as provided in Section 19100, is a nuisance and is subject to Sections 18000 and 18005.

Comment. With respect to an explosive substance other than fixed ammunition, Section 19190 continues former Section 12028(a) without substantive change.

CHAPTER 3. HANDGRENADES

§ 19200. Prohibition on manufacture, import, sale, gift, loan, or possession of metal military practice handgrenade or metal replica handgrenade

19200. (a) Except as provided in Section 19205 and Chapter 1 (commencing with Section 17700) of Division 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any metal military practice handgrenade or metal replica handgrenade is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

(b) Notwithstanding subdivision (a), a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1).

Comment. With respect to a metal military practice handgrenade or metal replica handgrenade, subdivision (a) of Section 19200 continues former Section 12020(a)(1) without substantive change.

Subdivision (b) continues the first sentence of the second paragraph of former Section 12020(a)(4) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons), 19205 (toy or permanently inoperative handgrenade).

See also Sections 17800 (distinct and separate offense), 19290 (metal military practice handgrenade or metal replica handgrenade constituting nuisance).

§ 19205. Toy or permanently inoperative handgrenade

19205. Section 19200 does not apply to any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance, or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

Comment. Section 19205 continues former Section 12020(b)(15) without substantive change.

For additional circumstances in which Section 19200 is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

§ 19290. Metal military practice handgrenade or metal replica handgrenade constituting nuisance

19290. Except as provided in Section 19205 and in Chapter 1 (commencing with Section 17700) of Division 2, any metal military practice handgrenade or metal replica handgrenade is a nuisance and is subject to Section 18010.

Comment. With respect to a metal military practice handgrenade or metal replica handgrenade, Section 19290 continues the first part of the first sentence of former Section 12029 without substantive change.

DIVISION 6. LESS LETHAL WEAPONS

§ 19400. Less lethal weapon or ammunition for official use by peace officer or custodial officer

19400. A person who is a peace officer or a custodial officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, may, if authorized by and under the terms and conditions as are specified by the person's employing agency, purchase, possess, or transport any less lethal weapon or ammunition for any less lethal weapon, for official use in the discharge of the person's duties.

Comment. Section 19400 continues former Section 12600 without substantive change. See Section 16780 ("less lethal weapon").

TITLE 3. WEAPONS AND DEVICES
OTHER THAN FIREARMS

DIVISION 1. BB DEVICES

§ 19910. Sale of BB device to minor

19910. Every person who sells any BB device to a minor is guilty of a misdemeanor.

Comment. Section 19910 continues former Section 12551 without substantive change. See Section 16250 ("BB device").

§ 19915. Furnishing BB device to minor without parental permission

19915. (a) Every person who furnishes any BB device to any minor, without the express or implied permission of a parent or legal guardian of the minor, is guilty of a misdemeanor.

(b) As used in this section, "furnishes" means any of the following:

(1) A loan.

(2) A transfer that does not involve a sale.

Comment. Section 19915 continues former Section 12552 without substantive change. See Section 16250 ("BB device").

DIVISION 2. BLOWGUNS

§ 20010 . Unlawful acts relating to blowguns or blowgun ammunition

20010. Any person who knowingly manufactures, sells, offers for sale, possesses, or uses a blowgun or blowgun ammunition in this state is guilty of a misdemeanor.

Comment. Section 20010 continues former Section 12582 without substantive change.

1 For circumstances in which this section is inapplicable, see Section 20015 (use of blowgun or
2 blowgun ammunition by veterinarian or animal control professional).

3 See Sections 16270 (“blowgun”), 16280 (“blowgun ammunition”).

4 **§ 20015. Use of blowgun or blowgun ammunition by veterinarian or animal control**
5 **professional**

6 20015. Nothing in this division shall prohibit the sale to, purchase by,
7 possession of, or use of any blowgun or blowgun ammunition by zookeepers,
8 animal control officers, Department of Fish and Game personnel, humane officers
9 whose names are maintained in the county record of humane officers pursuant to
10 Section 14502 of the Corporations Code, or veterinarians in the course and scope
11 of their business in order to administer medicine to animals.

12 **Comment.** Section 20015 continues former Section 12583 without substantive change.

13 See Sections 16270 (“blowgun”), 16280 (“blowgun ammunition”).

14 **DIVISION 3. BOOBYTRAP**

15 **§ 20110. Boobytrap**

16 20110. (a) Except as provided in Chapter 1 (commencing with Section 18710)
17 of Division 5 of Title 2, any person who assembles, maintains, places, or causes to
18 be placed a boobytrap device is guilty of a felony punishable by imprisonment in
19 the state prison for two, three, or five years.

20 (b) Possession of any device with the intent to use the device as a boobytrap is
21 punishable by imprisonment in state prison, or in a county jail not exceeding one
22 year, or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine
23 and imprisonment.

24 **Comment.** Section 20110 continues subdivisions (a) and (b) of former Section 12355 without
25 substantive change.

26 See Section 16310 (“boobytrap”).

27 **DIVISION 4. IMITATION FIREARMS**

28 **§ 20150. Consequences of making imitation firearm or specified device look more like**
29 **firearm**

30 20150. (a) Any person who changes, alters, removes, or obliterates any
31 coloration or markings that are required by any applicable state or federal law or
32 regulation, for any imitation firearm, or any device described in subdivision (b) of
33 Section 16700, in a way that makes the imitation firearm or device look more like
34 a firearm, is guilty of a misdemeanor.

35 (b) This section does not apply to a manufacturer, importer, or distributor of
36 imitation firearms.

37 (c) This section does not apply to lawful use in theatrical productions, including
38 motion pictures, television, and stage productions.

39 **Comment.** Section 20150 continues former Section 12553(a) without substantive change.

1 See Sections 16520 (“firearm”), 16700 (“imitation firearm”).

2 **§ 20155. Failure to comply with federal law or regulation on marking of toy, look-alike, or**
3 **imitation firearm**

4 20155. Any manufacturer, importer, or distributor of imitation firearms that fails
5 to comply with any applicable federal law or regulation governing the marking of
6 a toy, look-alike, or imitation firearm, as defined by federal law or regulation, is
7 guilty of a misdemeanor.

8 **Comment.** Section 20155 continues former Section 12553(b) without substantive change.

9 See Section 16700 (“imitation firearm”).

10 **§ 20160. Advisory requirement for imitation firearm**

11 20160. (a) Any imitation firearm manufactured after July 1, 2005, shall, at the
12 time of offer for sale in this state, be accompanied by a conspicuous advisory in
13 writing as part of the packaging, but not necessarily affixed to the imitation
14 firearm, to the effect that the product may be mistaken for a firearm by law
15 enforcement officers or others, that altering the coloration or markings required by
16 state or federal law or regulations so as to make the product look more like a
17 firearm is dangerous, and may be a crime, and that brandishing or displaying the
18 product in public may cause confusion and may be a crime.

19 (b) Any manufacturer, importer, or distributor that fails to comply with this
20 advisory for any imitation firearm manufactured after July 1, 2005, shall be liable
21 for a civil fine for each action brought by a city attorney or district attorney of not
22 more than one thousand dollars (\$1,000) for the first action, five thousand dollars
23 (\$5,000) for the second action, and ten thousand dollars (\$10,000) for the third
24 action and each subsequent action.

25 **Comment.** Section 20160 continues former Section 12554 without substantive change.

26 In applying subdivision (b), an action under former Section 12554 counts as a prior action
27 under this section. See Section 16010 & Comment (continuation of existing law); see also Section
28 16015 (determining existence of prior conviction).

29 See Sections 16520 (“firearm”), 16700 (“imitation firearm”).

30 **§ 20165. Unlawful commercial activities relating to imitation firearms**

31 20165. (a) Any person who, for commercial purposes, purchases, sells,
32 manufactures, ships, transports, distributes, or receives, by mail order or in any
33 other manner, an imitation firearm, except as authorized by this section, is liable
34 for a civil fine in an action brought by the city attorney or the district attorney of
35 not more than ten thousand dollars (\$10,000) for each violation.

36 (b) The manufacture, purchase, sale, shipping, transport, distribution, or receipt,
37 by mail or in any other manner, of an imitation firearm is authorized if the device
38 is manufactured, purchased, sold, shipped, transported, distributed, or received for
39 any of the following purposes:

40 (1) Solely for export in interstate or foreign commerce.

41 (2) Solely for lawful use in theatrical productions, including motion picture,
42 television, and stage productions.

(3) For use in a certified or regulated sporting event or competition.

(4) For use in military or civil defense activities, or ceremonial activities.

(5) For public displays authorized by public or private schools.

Comment. Section 20165 continues former Section 12555(a)-(b) without substantive change.

See Section 16700 (“imitation firearm”), which includes special guidance for interpreting that term in the context of this section.

§ 20170. Display of imitation firearm in public place

20170. (a) No person may openly display or expose any imitation firearm in a public place.

(b) As used in this section, “public place” means an area open to the public and includes any of the following:

(1) A street.

(2) A sidewalk.

(3) A bridge.

(4) An alley.

(5) A plaza.

(6) A park.

(7) A driveway.

(8) A front yard.

(9) A parking lot.

(10) An automobile, whether moving or not.

(11) A building open to the general public, including one that serves food or drink, or provides entertainment.

(12) A doorway or entrance to a building or dwelling.

Comment. Subdivision (a) of Section 20170 continues former Section 12556(a) without substantive change.

For circumstances in which this section is inapplicable, see Section 20175 (exemptions). For consequences of violating this section, see Section 20180 (punishment).

Subdivision (b) continues former Section 12556(e) without substantive change.

See Section 16700 (“imitation firearm”).

§ 20175. Exemptions

20175. Section 20170 does not apply in any of the following circumstances:

(a) The imitation firearm is packaged or concealed so that it is not subject to public viewing.

(b) The imitation firearm is displayed or exposed in the course of commerce, including a commercial film or video production, or for service, repair, or restoration of the imitation firearm.

(c) The imitation firearm is used in a theatrical production, a motion picture, video, television, or stage production.

(d) The imitation firearm is used in conjunction with a certified or regulated sporting event or competition.

(e) The imitation firearm is used in conjunction with lawful hunting, or a lawful pest control activity.

1 (f) The imitation firearm is used or possessed at a certified or regulated public or
2 private shooting range.

3 (g) The imitation firearm is used at a fair, exhibition, exposition, or other similar
4 activity for which a permit has been obtained from a local or state government.

5 (h) The imitation firearm is used in a military, civil defense, or civic activity,
6 including a flag ceremony, color guard, parade, award presentation, historical
7 reenactment, or memorial.

8 (i) The imitation firearm is used for a public display authorized by a public or
9 private school or a display that is part of a museum collection.

10 (j) The imitation firearm is used in a parade, ceremony, or other similar activity
11 for which a permit has been obtained from a local or state government.

12 (k) The imitation firearm is displayed on a wall plaque or in a presentation case.

13 (l) The imitation firearm is used in an area where the discharge of a firearm is
14 lawful.

15 (m) The entire exterior surface of the imitation firearm is white, bright red,
16 bright orange, bright yellow, bright green, bright blue, bright pink, or bright
17 purple, either singly or as the predominant color in combination with other colors
18 in any pattern, or the entire device is constructed of transparent or translucent
19 material that permits unmistakable observation of the device's complete contents.
20 Merely having an orange tip as provided in federal law and regulations does not
21 satisfy this requirement. The entire surface must be colored or transparent or
22 translucent.

23 **Comment.** Section 20175 continues former Section 12556(d) without substantive change.

24 See Section 16700 ("imitation firearm").

25 § 20180. Punishment

26 20180. (a) Except as provided in subdivision (b), violation of Section 20170 is
27 an infraction punishable by a fine of one hundred dollars (\$100) for the first
28 offense, and three hundred dollars (\$300) for a second offense.

29 (b) A third or subsequent violation of Section 20170 is punishable as a
30 misdemeanor.

31 (c) Nothing in Sections 20170, 20175, or this section shall be construed to
32 preclude prosecution for a violation of Section 171b, 171.5, or 626.10.

33 **Comment.** Subdivision (a) of Section 20180 continues former Section 12556(b) without
34 substantive change.

35 Subdivision (b) continues former Section 12556(c) without substantive change.

36 Subdivision (c) continues former Section 12556 (f) without substantive change.

37 A violation of the predecessor of Section 20170 (former Section 12556(a)) counts as a prior
38 offense in determining the appropriate punishment under this section. See Section 16015
39 (determining existence of prior conviction).

DIVISION 5. KNIVES AND SIMILAR WEAPONS

CHAPTER 1. GENERAL PROVISIONS

§ 20200. Circumstances in which knife is not deemed “concealed”

20200. A knife carried in a sheath that is worn openly suspended from the waist of the wearer is not concealed within the meaning of [Section 12020].

Comment. Section 20200 continues former Section 12020(d) without substantive change.

CHAPTER 2. DISGUISED OR MISLEADING APPEARANCE

Article 1. Air Gauge Knife

§ 20310. Prohibition on manufacture, import, sale, gift, loan, or possession of air gauge knife

20310. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any air gauge knife is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to an air gauge knife, Section 20310 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16140 (“air gauge knife”). See also Sections 17800 (distinct and separate offense), 20390 (air gauge knife constituting nuisance).

§ 20390. Air gauge knife constituting nuisance

20390. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any air gauge knife is a nuisance and is subject to Section 18010.

Comment. With respect to an air gauge knife, Section 20390 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16140 (“air gauge knife”).

Article 2. Belt Buckle Knife

§ 20410. Prohibition on manufacture, import, sale, gift, loan, or possession of belt buckle knife

20410. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale,

1 or who gives, lends, or possesses any belt buckle knife is punishable by
2 imprisonment in a county jail not exceeding one year or in the state prison.

3 **Comment.** With respect to a belt buckle knife, Section 20410 continues former Section
4 12020(a)(1) without substantive change.

5 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
6 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

7 See Section 16260 (“belt buckle knife”). See also Sections 17800 (distinct and separate
8 offense), 20490 (belt buckle knife constituting nuisance).

9 **§ 20490. Belt buckle knife constituting nuisance**

10 20490. Except as provided in Chapter 1 (commencing with Section 17700) of
11 Division 2 of Title 2, any belt buckle knife is a nuisance and is subject to Section
12 18010.

13 **Comment.** With respect to a belt buckle knife, Section 20490 continues the first part of the
14 first sentence of former Section 12029 without substantive change.

15 See Section 16260 (“belt buckle knife”).

16 **Article 3. Cane Sword**

17 **§ 20510. Prohibition on manufacture, import, sale, gift, loan, or possession of cane sword**

18 20510. Except as provided in Chapter 1 (commencing with Section 17700) of
19 Division 2 of Title 2, any person in this state who manufactures or causes to be
20 manufactured, imports into the state, keeps for sale, or offers or exposes for sale,
21 or who gives, lends, or possesses any cane sword is punishable by imprisonment
22 in a county jail not exceeding one year or in the state prison.

23 **Comment.** With respect to a cane sword, Section 20510 continues former Section 12020(a)(1)
24 without substantive change.

25 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
26 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

27 See Section 16340 (“cane sword”). See also Sections 17800 (distinct and separate offense),
28 20590 (cane sword constituting nuisance).

29 **§ 20590. Cane sword constituting nuisance**

30 20590. Except as provided in Chapter 1 (commencing with Section 17700) of
31 Division 2 of Title 2, any cane sword is a nuisance and is subject to Section 18010.

32 **Comment.** With respect to a cane sword, Section 20590 continues the first part of the first
33 sentence of former Section 12029 without substantive change.

34 See Section 16340 (“cane sword”).

35 **Article 4. Lipstick Case Knife**

36 **§ 20610. Prohibition on manufacture, import, sale, gift, loan, or possession of lipstick case**
37 **knife**

38 20610. Except as provided in Chapter 1 (commencing with Section 17700) of
39 Division 2 of Title 2, any person in this state who manufactures or causes to be
40 manufactured, imports into the state, keeps for sale, or offers or exposes for sale,

or who gives, lends, or possesses any lipstick case knife is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to a lipstick case knife, Section 20610 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16830 (“lipstick case knife”). See also Sections 17800 (distinct and separate offense), 20690 (lipstick case knife constituting nuisance).

§ 20690. Lipstick case knife constituting nuisance

20690. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any lipstick case knife is a nuisance and is subject to Section 18010.

Comment. With respect to a lipstick case knife, Section 20690 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16830 (“lipstick case knife”).

Article 5. Shobi-zue

§ 20710. Prohibition on manufacture, import, sale, gift, loan, or possession of shobi-zue

20710. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any shobi-zue is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to a shobi-zue, Section 20710 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 17160 (“shobi-zue”). See also Sections 17800 (distinct and separate offense), 20790 (shobi-zue constituting nuisance).

§ 20790. Shobi-zue constituting nuisance

20790. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any shobi-zue is a nuisance and is subject to Section 18010.

Comment. With respect to a shobi-zue, Section 20790 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17160 (“shobi-zue”).

Article 6. Undetectable Knife

§ 20810. Restrictions relating to undetectable knife

20810. (a) Any person in this state who commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, or who knowingly exports out of this state for commercial, dealer, wholesaler, or distributor sale, or who keeps for commercial sale, or offers

1 or exposes for commercial, dealer, wholesaler, or distributor sale, any undetectable
2 knife is guilty of a misdemeanor.

3 (b) Notwithstanding any other provision of law, commencing January 1, 2000,
4 all knives or other instrument with or without a handguard that is capable of ready
5 use as a stabbing weapon that may inflict great bodily injury or death that are
6 commercially manufactured in this state that utilize materials that are not
7 detectable by a metal detector or magnetometer, shall be manufactured to include
8 materials that will ensure they are detectable by a metal detector or magnetometer,
9 either handheld or otherwise, that is set at standard calibration.

10 **Comment.** Subdivision (a) of Section 20810 continues the first sentence of former Section
11 12001.1(a) without change.

12 Subdivision (b) continues former Section 12001.1(b) without change.

13 For circumstances in which this section is inapplicable, see Sections 20815 (undetectable knife
14 for law enforcement or military entity), 20820 (undetectable knife for historical society, museum,
15 or institutional collection open to public).

16 See Section 17290 (“undetectable knife”).

17 **§ 20815. Undetectable knife for law enforcement or military entity**

18 20815. Section 20810 does not apply to the manufacture or importation of any
19 undetectable knife for sale to a law enforcement or military entity with a valid
20 agency, department, or unit purchase order, nor does Section 20810 apply to the
21 subsequent sale of any undetectable knife to a law enforcement or military entity.

22 **Comment.** Section 20815 continues former Section 12001.1(c) without substantive change.

23 See Section 17290 (“undetectable knife”).

24 **§ 20820. Undetectable knife for historical society, museum, or institutional collection open**
25 **to public**

26 20820. Section 20810 does not apply to the manufacture or importation of any
27 undetectable knife for sale to a federal, state, or local historical society, museum,
28 or institutional collection that is open to the public, provided that the undetectable
29 knife is properly housed and secured from unauthorized handling, nor does
30 Section 20810 apply to the subsequent sale of the knife to any of these entities.

31 **Comment.** Section 20820 continues former Section 12001.1(d) without substantive change.

32 See Section 17290 (“undetectable knife”).

33 **Article 7. Writing Pen Knife**

34 **§ 20910. Prohibition on manufacture, import, sale, gift, loan, or possession of writing pen**
35 **knife**

36 20910. Except as provided in Chapter 1 (commencing with Section 17700) of
37 Division 2 of Title 2, any person in this state who manufactures or causes to be
38 manufactured, imports into the state, keeps for sale, or offers or exposes for sale,
39 or who gives, lends, or possesses any writing pen knife is punishable by
40 imprisonment in a county jail not exceeding one year or in the state prison.

1 **Comment.** With respect to a writing pen knife, Section 20910 continues former Section
2 12020(a)(1) without substantive change.

3 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
4 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

5 See Section 17350 (“writing pen knife”). See also Sections 17800 (distinct and separate
6 offense), 20990 (writing pen knife constituting nuisance).

7 **§ 20990. Writing pen knife constituting nuisance**

8 20990. Except as provided in Chapter 1 (commencing with Section 17700) of
9 Division 2 of Title 2, any writing pen knife is a nuisance and is subject to Section
10 18010.

11 **Comment.** With respect to a writing pen knife, Section 20990 continues the first part of the
12 first sentence of former Section 12029 without substantive change.

13 See Section 17350 (“writing pen knife”).

14 CHAPTER 3. BALLISTIC KNIFE

15 **§ 21110. Prohibition on manufacture, import, sale, gift, loan, or possession of ballistic knife**

16 21110. Except as provided in Chapter 1 (commencing with Section 17700) of
17 Division 2 of Title 2, any person in this state who manufactures or causes to be
18 manufactured, imports into the state, keeps for sale, or offers or exposes for sale,
19 or who gives, lends, or possesses any ballistic knife is punishable by imprisonment
20 in a county jail not exceeding one year or in the state prison.

21 **Comment.** With respect to a ballistic knife, Section 21110 continues former Section
22 12020(a)(1) without substantive change.

23 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
24 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

25 See Section 16220 (“ballistic knife”). See also Sections 17800 (distinct and separate offense),
26 21190 (ballistic knife constituting nuisance).

27 **§ 21190. Ballistic knife constituting nuisance**

28 21190. Except as provided in Chapter 1 (commencing with Section 17700) of
29 Division 2 of Title 2, any ballistic knife is a nuisance and is subject to Section
30 18010.

31 **Comment.** With respect to a ballistic knife, Section 21190 continues the first part of the first
32 sentence of former Section 12029 without substantive change.

33 See Section 16220 (“ballistic knife”).

34 CHAPTER 4. DIRK OR DAGGER

35 **§ 21310. Carrying concealed dirk or dagger**

36 21310. Except as provided in Chapter 1 (commencing with Section 17700) of
37 Division 2 of Title 2, any person in this state who carries concealed upon the
38 person any dirk or dagger is punishable by imprisonment in a county jail not
39 exceeding one year or in the state prison.

1 **Comment.** Section 21310 continues the first paragraph of former Section 12020(a)(4) without
2 substantive change.

3 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
4 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons), 20200
5 (circumstances in which knife is not deemed “concealed”).

6 See Section 16470 (“dirk” or “dagger”). See also Sections 17800 (distinct and separate
7 offense), 21390 (concealed dirk or dagger constituting nuisance).

8 **§ 21390. Concealed dirk or dagger constituting nuisance**

9 21390. The unlawful concealed carrying upon the person of any dirk or dagger,
10 as provided in Section 21310, is a nuisance and is subject to Sections 18000 and
11 18005.

12 **Comment.** With respect to a dirk or dagger, Section 21390 continues former Section 12028(a)
13 without substantive change.

14 See Section 16470 (“dirk” or “dagger”).

15 CHAPTER 5. SWITCHBLADE KNIFE

16 **§ 21510. Restrictions relating to switchblade knife**

17 21510. Every person who does any of the following with a switchblade knife
18 having a blade two or more inches in length is guilty of a misdemeanor:

19 (a) Possesses the knife in the passenger’s or driver’s area of any motor vehicle in
20 any public place or place open to the public.

21 (b) Carries the knife upon the person.

22 (c) Sells, offers for sale, exposes for sale, loans, transfers, or gives the knife to
23 any other person.

24 **Comment.** Section 21510 continues the first paragraph of former Section 653k without
25 substantive change.

26 See Sections 16965 (“passenger’s or driver’s area”), 17235 (“switchblade knife”).

27 **§ 21590. Switchblade knife constituting nuisance**

28 21590. The unlawful possession or carrying of any switchblade knife, as
29 provided in Section 21510, is a nuisance and is subject to Sections 18000 and
30 18005.

31 **Comment.** With respect to a switchblade knife, Section 21590 continues former Section
32 12028(a) without substantive change.

33 See Section 17235 (“switchblade knife”).

DIVISION 6. KNUCKLES

CHAPTER 1. HARD PLASTIC KNUCKLES

§ 21710. Restrictions relating to hard plastic knuckles

21710. Any person in this state who commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, keeps for commercial sale, or offers or exposes for commercial sale, any hard plastic knuckles is guilty of a misdemeanor.

Comment. Section 21710 continues the first sentence of former Section 12020.1 without substantive change.

See Section 16680 (“hard plastic knuckles”).

CHAPTER 2. METAL KNUCKLES

§ 21810. Prohibition on manufacture, import, sale, gift, loan, or possession of metal knuckles

21810. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any metal knuckles is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to metal knuckles, Section 21810 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16920 (“metal knuckles”). See also Sections 17800 (distinct and separate offense), 21890 (metal knuckles constituting nuisance).

§ 21890. Metal knuckles constituting nuisance

21890. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, metal knuckles are a nuisance and are subject to Section 18010.

Comment. With respect to metal knuckles, Section 21890 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16920 (“metal knuckles”).

DIVISION 7. NUNCHAKU

§ 22010. Prohibition on manufacture, import, sale, gift, loan, or possession of nunchaku

22010. Except as provided in Section 22015 and Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or

1 exposes for sale, or who gives, lends, or possesses any nunchaku is punishable by
2 imprisonment in a county jail not exceeding one year or in the state prison.

3 **Comment.** With respect to a nunchaku, Section 22010 continues former Section 12020(a)(1)
4 without substantive change.

5 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
6 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons), 22015
7 (nunchaku for school teaching arts of self-defense).

8 See Section 16940 (“nunchaku”). See also Sections 17800 (distinct and separate offense),
9 22090 (nunchaku constituting nuisance).

10 **§ 22015. Nunchaku for school teaching arts of self-defense**

11 22015. Section 22010 does not apply to either of the following:

12 (a) The possession of a nunchaku on the premises of a school that holds a
13 regulatory or business license and teaches the arts of self-defense.

14 (b) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a
15 school that holds a regulatory or business license and teaches the arts of self-
16 defense.

17 **Comment.** Subdivision (a) of Section 22015 continues former Section 12020(b)(3) without
18 substantive change.

19 Subdivision (b) continues former Section 12020(b)(4) without substantive change.

20 For additional circumstances in which Section 16910 is inapplicable, see Sections 16590
21 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited
22 weapons).

23 See Section 16940 (“nunchaku”).

24 **§ 22090. Nunchaku constituting nuisance**

25 22090. Except as provided in Section 22015 and in Chapter 1 (commencing with
26 Section 17700) of Division 2 of Title 2, any nunchaku is a nuisance and is subject
27 to Section 18010.

28 **Comment.** With respect to a nunchaku, Section 22090 continues the first part of the first
29 sentence of former Section 12029 without substantive change.

30 See Section 16940 (“nunchaku”).

31 **DIVISION 8. SAPS AND SIMILAR WEAPONS**

32 **§ 22210. Prohibition on manufacture, import, sale, gift, loan, or possession of leaded cane,**
33 **blackjack, slungshot, billy, sandclub, sap, or sandbag**

34 22210. Except as provided in Section 22215 and Chapter 1 (commencing with
35 Section 17700) of Division 2 of Title 2, any person in this state who manufactures
36 or causes to be manufactured, imports into the state, keeps for sale, or offers or
37 exposes for sale, or who gives, lends, or possesses any leaded cane, or any
38 instrument or weapon of the kind commonly known as a blackjack, slungshot,
39 billy, sandclub, sap, or sandbag, is punishable by imprisonment in a county jail not
40 exceeding one year or in the state prison.

1 **Comment.** With respect to a leaded cane or “any instrument or weapon of the kind commonly
2 known as a blackjack, slungshot, billy, sandclub, sap, or sandbag,” Section 22210 continues
3 former Section 12020(a)(1) without substantive change.

4 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
5 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

6 See Section 16760 (“leaded cane”). See also Sections 17800 (distinct and separate offense),
7 22290 (leaded cane, blackjack, slungshot, billy, sandclub, sap, or sandbag constituting nuisance).

8 **§ 22215. Exemption relating to wooden clubs or batons for special police officers or**
9 **uniformed security guards**

10 22215. Section 22210 does not apply to the manufacture for, sale to, exposing or
11 keeping for sale to, importation of, or lending of wooden clubs or batons to special
12 police officers or uniformed security guards authorized to carry any wooden club
13 or baton pursuant to Section 22295 by entities that are in the business of selling
14 wooden clubs or batons to special police officers and uniformed security guards
15 when engaging in transactions with those persons.

16 **Comment.** Section 22215 continues former Section 12020(b)(14) without substantive change.

17 For additional circumstances in which Section 22210 is inapplicable, see Sections 16590
18 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited
19 weapons).

20 **§ 22290. Leaded cane, blackjack, slungshot, billy, sandclub, sap, or sandbag constituting**
21 **nuisance**

22 22290. Except as provided in Section 22210 and in Chapter 1 (commencing with
23 Section 17700) of Division 2 of Title 2, any leaded cane or any instrument or
24 weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub,
25 sap, or sandbag is a nuisance and is subject to Section 18010.

26 **Comment.** With respect to a leaded cane or “any instrument or weapon of the kind commonly
27 known as a blackjack, slungshot, billy, sandclub, sap, or sandbag,” Section 22290 continues the
28 first part of the first sentence of former Section 12029 without substantive change.

29 See Section 16760 (“leaded cane”).

30 **§ 22295. Wooden club or baton for law enforcement purposes**

31 § 22295. (a) Nothing in any provision listed in Section 16580 prohibits any
32 police officer, special police officer, peace officer, or law enforcement officer
33 from carrying any wooden club or baton.

34 (b) Nothing in any provision listed in Section 16580 prohibits a uniformed
35 security guard, regularly employed and compensated by a person engaged in any
36 lawful business, while actually employed and engaged in protecting and
37 preserving property or life within the scope of employment, from carrying any
38 wooden club or baton if the uniformed security guard has satisfactorily completed
39 a course of instruction certified by the Department of Consumer Affairs in the
40 carrying and use of the club or baton. The training institution certified by the
41 Department of Consumer Affairs to present this course, whether public or private,
42 is authorized to charge a fee covering the cost of the training.

1 (c) The Department of Consumer Affairs, in cooperation with the Commission
2 on Peace Officer Standards and Training, shall develop standards for a course in
3 the carrying and use of a club or baton.

4 (d) Any uniformed security guard who successfully completes a course of
5 instruction under this section is entitled to receive a permit to carry and use a club
6 or baton within the scope of employment, issued by the Department of Consumer
7 Affairs. The department may authorize a certified training institution to issue
8 permits to carry and use a club or baton. A fee in the amount provided by law shall
9 be charged by the Department of Consumer Affairs to offset the costs incurred by
10 the department in course certification, quality control activities associated with the
11 course, and issuance of the permit.

12 (e) Any person who has received a permit or certificate that indicates
13 satisfactory completion of a club or baton training course approved by the
14 Commission on Peace Officer Standards and Training prior to January 1, 1983,
15 shall not be required to obtain a club or baton permit or complete a course certified
16 by the Department of Consumer Affairs.

17 (f) Any person employed as a county sheriff's or police security officer, as
18 defined in Section 831.4, shall not be required to obtain a club or baton permit or
19 to complete a course certified by the Department of Consumer Affairs in the
20 carrying and use of a club or baton, provided that the person completes a course
21 approved by the Commission on Peace Officer Standards and Training in the
22 carrying and use of the club or baton, within 90 days of employment.

23 (g) Nothing in any provision listed in Section 16580 prohibits an animal control
24 officer, as described in Section 830.9, from carrying any wooden club or baton if
25 the animal control officer has satisfactorily completed a course of instruction
26 certified by the Department of Consumer Affairs in the carrying and use of the
27 club or baton. The training institution certified by the Department of Consumer
28 Affairs to present this course, whether public or private, is authorized to charge a
29 fee covering the cost of the training.

30 **Comment.** With respect to a wooden club or baton, subdivision (a) of Section 22295 continues
31 former Section 12002(a) without substantive change. The remainder of former Section 12002(a)
32 is continued in Section 17515 without substantive change.

33 Subdivisions (b)-(g) continue former Section 12002(b)-(g) without substantive change.

34 DIVISION 9. SHURIKEN

35 § 22410. Prohibition on manufacture, import, sale, gift, loan, or possession of shuriken

36 22410. Except as provided in Chapter 1 (commencing with Section 17700) of
37 Division 2 of Title 2, any person in this state who manufactures or causes to be
38 manufactured, imports into the state, keeps for sale, or offers or exposes for sale,
39 or who gives, lends, or possesses any shuriken is punishable by imprisonment in a
40 county jail not exceeding one year or in the state prison.

1 **Comment.** With respect to a shuriken, Section 22410 continues former Section 12020(a)(1)
2 without substantive change.

3 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
4 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

5 See Section 17200 (“shuriken”). See also Sections 17800 (distinct and separate offense), 22490
6 (shuriken constituting nuisance).

7 **§ 22490. Shuriken constituting nuisance**

8 22490. Except as provided in Chapter 1 (commencing with Section 17700) of
9 Division 2 of Title 2, any shuriken is a nuisance and is subject to Section 18010.

10 **Comment.** With respect to a shuriken, Section 22490 continues the first part of the first
11 sentence of former Section 12029 without substantive change.

12 See Section 17200 (“shuriken”).

13 DIVISION 10. STUN GUN

14 **§ 22610. Unlawful acts relating to stun gun**

15 22610. Notwithstanding any other provision of law, any person may purchase,
16 possess, or use a stun gun, subject to the following requirements:

17 (a) No person convicted of a felony or any crime involving an assault under the
18 laws of the United States, the State of California, or any other state, government,
19 or country, or convicted of misuse of a stun gun under Section 244.5, shall
20 purchase, possess, or use any stun gun.

21 (b) No person addicted to any narcotic drug shall purchase, possess, or use a
22 stun gun.

23 (c)(1) No person shall sell or furnish any stun gun to a minor unless the minor is
24 at least 16 years of age and has the written consent of the minor’s parent or legal
25 guardian.

26 (2) Violation of this subdivision shall be a public offense punishable by a fifty
27 dollar (\$50) fine for the first offense. Any subsequent violation of this subdivision
28 is a misdemeanor.

29 (d) No minor shall possess any stun gun unless the minor is at least 16 years of
30 age and has the written consent of the minor’s parent or legal guardian.

31 **Comment.** Section 22610 continues former Section 12651 without substantive change.

32 A violation of the predecessor of subdivision (c) (former Section 12651(c)) counts as a prior
33 conviction in determining the appropriate punishment for a violation of that subdivision. See
34 Section 16015 (determining existence of prior conviction).

35 See Section 17230 (“stun gun”). See also Section 22620 (violation punishable as
36 misdemeanor).

37 **§ 22615. Serial number and name of manufacturer**

38 22615. Each stun gun sold shall contain both of the following:

39 (a) The name of the manufacturer stamped on the stun gun.

40 (b) The serial number applied by the manufacturer.

41 **Comment.** Section 22615 continues former Section 12652 without substantive change.

1 See Section 17230 (“stun gun”). See also Section 22620 (violation punishable as
2 misdemeanor).

3 **§ 22620. Violation punishable as misdemeanor**

4 22620. Unless otherwise specified, any violation of this division is a
5 misdemeanor.

6 **Comment.** Section 22620 continues former Section 12653 without substantive change.

7 **§ 22625. Instruction booklet for stun gun**

8 22625. (a) Each stun gun sold in this state shall be accompanied by an
9 instruction booklet.

10 (b) Violation of this section shall be a public offense punishable by a fifty dollar
11 (\$50) fine for each weapon sold without the booklet.

12 **Comment.** Section 22625 continues former Section 12654 without substantive change.
13 See Section 17230 (“stun gun”).

14 **DIVISION 11. TEAR GAS AND TEAR GAS WEAPONS**

15 **CHAPTER 1. GENERAL PROVISIONS**

16 **§ 22810. Lawful and unlawful acts relating to tear gas and tear gas weapons**

17 22810. Notwithstanding any other provision of law, any person may purchase,
18 possess, or use tear gas or any tear gas weapon for the projection or release of tear
19 gas if the tear gas or tear gas weapon is used solely for self-defense purposes,
20 subject to the following requirements:

21 (a) No person convicted of a felony or any crime involving an assault under the
22 laws of the United States, the State of California, or any other state, government,
23 or country, or convicted of misuse of tear gas under subdivision (g), shall
24 purchase, possess, or use tear gas or any tear gas weapon.

25 (b) No person addicted to any narcotic drug shall purchase, possess, or use tear
26 gas or any tear gas weapon.

27 (c) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

28 (d) No minor shall purchase, possess, or use tear gas or any tear gas weapon.

29 (e)(1) No person shall purchase, possess, or use any tear gas weapon that expels
30 a projectile, or that expels the tear gas by any method other than an aerosol spray,
31 or that contains more than 2.5 ounces net weight of aerosol spray.

32 (2) Every tear gas container and tear gas weapon that may be lawfully
33 purchased, possessed, and used pursuant to this section shall have a label that
34 states: “WARNING: The use of this substance or device for any purpose other
35 than self-defense is a crime under the law. The contents are dangerous — use with
36 care.”

37 (3) After January 1, 1984, every tear gas container and tear gas weapon that may
38 be lawfully purchased, possessed, and used pursuant to this section shall have a

1 label that discloses the date on which the useful life of the tear gas weapon
2 expires.

3 (4) Every tear gas container and tear gas weapon that may be lawfully purchased
4 pursuant to this section shall be accompanied at the time of purchase by printed
5 instructions for use.

6 (f) Effective March 1, 1994, every tear gas container and tear gas weapon that
7 may be lawfully purchased, possessed, and used pursuant to this section shall be
8 accompanied by an insert including directions for use, first aid information, safety
9 and storage information, and explanation of the legal ramifications of improper
10 use of the tear gas container or tear gas product.

11 (g)(1) Except as provided in paragraph (2), any person who uses tear gas or any
12 tear gas weapon except in self-defense is guilty of a public offense and is
13 punishable by imprisonment in a state prison for 16 months, or two or three years
14 or in a county jail not to exceed one year or by a fine not to exceed one thousand
15 dollars (\$1,000), or by both the fine and imprisonment.

16 (2) If the use is against a peace officer, as defined in Chapter 4.5 (commencing
17 with Section 830) of Title 3 of Part 2, engaged in the performance of official
18 duties and the person committing the offense knows or reasonably should know
19 that the victim is a peace officer, the offense is punishable by imprisonment in a
20 state prison for 16 months or two or three years or by a fine of one thousand
21 dollars (\$1,000), or by both the fine and imprisonment.

22 **Comment.** Section 22810 continues former Section 12403.7 without substantive change.

23 See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

24 **§ 22815. Minor age 16 or older**

25 22815. (a) Notwithstanding subdivision (d) of Section 22810, a minor who has
26 attained the age of 16 years may purchase and possess tear gas or a tear gas
27 weapon pursuant to this division if the minor is accompanied by a parent or
28 guardian, or has the written consent of a parent or guardian.

29 (b) Notwithstanding subdivision (c) of Section 22810, a person may sell or
30 furnish tear gas or a tear gas weapon to a minor who has attained the age of 16
31 years and who is accompanied by a parent or guardian, or who presents a
32 statement of consent signed by the minor’s parent or guardian.

33 (c) Any civil liability of a minor arising out of the minor’s use of tear gas or a
34 tear gas weapon other than for self-defense is imposed upon the person, parent, or
35 guardian who signed the statement of consent specified in subdivision (b). That
36 person, parent, or guardian shall be jointly and severally liable with the minor for
37 any damages proximately resulting from the negligent or wrongful act or omission
38 of the minor in the use of the tear gas or a tear gas weapon.

39 **Comment.** Section 22815 continues former Section 12403.8 without substantive change.

40 See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

1 **§ 22820. Peace officer trained in use of tear gas**

2 22820. Nothing in this division prohibits any person who is a peace officer, as
3 defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from
4 purchasing, possessing, transporting, or using any tear gas or tear gas weapon if
5 the person has satisfactorily completed a course of instruction approved by the
6 Commission on Peace Officer Standards and Training in the use of tear gas.

7 **Comment.** Section 22820 continues former Section 12403 without substantive change.

8 See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

9 **§ 22825. Custodial officer of county**

10 22825. A custodial officer of a county may carry a tear gas weapon pursuant to
11 Section 22820 only while on duty. A custodial officer of a county may carry a tear
12 gas weapon while off duty only in accordance with all other laws.

13 **Comment.** Section 22825 continues former Section 12403.9 without substantive change.

14 See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

15 **§ 22830. Member of military or federal law enforcement officer**

16 22830. Nothing in this division prohibits any member of the military or naval
17 forces of this state or of the United States or any federal law enforcement officer
18 from purchasing, possessing, or transporting any tear gas or tear gas weapon for
19 official use in the discharge of duties.

20 **Comment.** Section 22830 continues former Section 12403.1 without substantive change.

21 See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

22 **§ 22835. Private investigator or private patrol operator or employee**

23 22835. Notwithstanding any other provision of law, a person holding a license
24 as a private investigator pursuant to Chapter 11.3 (commencing with Section
25 7512) of Division 3 of the Business and Professions Code, or private patrol
26 operator pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3
27 of the Business and Professions Code, or a uniformed patrolperson employee of a
28 private patrol operator, may purchase, possess, or transport any tear gas weapon, if
29 it is used solely for defensive purposes in the course of the activity for which the
30 license was issued and if the person has satisfactorily completed a course of
31 instruction approved by the Department of Consumer Affairs in the use of tear gas.

32 **Comment.** Section 22835 continues former Section 12403.5 without substantive change.

33 See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

34 **§ 22840. Tear gas or tear gas weapons in prison, jail, or similar institution**

35 22840. Nothing in this division authorizes the possession of tear gas or a tear gas
36 weapon in any institution described in Section 4574, or within the grounds
37 belonging or adjacent to any institution described in Section 4574, except where
38 authorized by the person in charge of the institution.

39 **Comment.** Section 22840 continues former Section 12404 without substantive change.

40 See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

CHAPTER 2. UNLAWFUL POSSESSION, SALE, OR TRANSPORTATION

§ 22900. Unlawful sale, possession, or transportation of tear gas or tear gas weapon

22900. Any person, firm, or corporation who within this state knowingly sells or offers for sale, possesses, or transports any tear gas or tear gas weapon, except as permitted under the provisions of this division, is guilty of a public offense and upon conviction thereof shall be punishable by imprisonment in the county jail for not exceeding one year or by a fine not to exceed two thousand dollars (\$2,000), or by both.

Comment. Section 22900 continues former Section 12420 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

§ 22905. Affixation of serial number and name of manufacturer

22905. Each tear gas weapon sold, transported or possessed under the authority of this division shall bear the name of the manufacturer and a serial number applied by the manufacturer.

Comment. Section 22905 continues former Section 12421 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

§ 22910. Obliteration of serial number, name of manufacturer, or other identification mark

22910. (a) Any person who changes, alters, removes or obliterates the name of the manufacturer, the serial number, or any other mark of identification on any tear gas weapon is guilty of a public offense and, upon conviction, shall be punished by imprisonment in the state prison or by a fine of not more than two thousand dollars (\$2,000) or by both.

(b) Possession of any such weapon upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same.

Comment. Subdivision (a) of Section 22910 continues the first paragraph of former Section 12422 without substantive change.

Subdivision (b) continues the second paragraph of former Section 12422 without change. Continuation of this material is not intended to reflect any determination regarding its constitutionality. See Section 16025. For a case discussing the constitutionality of a similar provision, see *In re Christopher K.*, 91 Cal. App. 4th 853, 110 Cal. Rptr. 914 (2001).

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

CHAPTER 3. PERMITS

§ 23000. Permit issued by Department of Justice

23000. The Department of Justice may issue a permit for the possession and transportation of tear gas or a tear gas weapon that is not intended or certified for personal self-defense purposes, upon proof that good cause exists for issuance of the permit to the applicant. The permit may also allow the applicant to install, maintain, and operate a protective system involving the use of tear gas or a tear

1 gas weapon in any place that is accurately and completely described in the permit
2 application.

3 **Comment.** Section 23000 continues former Section 12423 without substantive change.

4 See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

5 **§ 23005. Permit application**

6 23005. (a) An application for a permit shall satisfy all of the following
7 requirements:

8 (1) It shall be filed in writing.

9 (2) It shall be signed by the applicant if an individual, or by a member or officer
10 qualified to sign if the applicant is a firm or corporation.

11 (3) It shall state the applicant’s name, business in which engaged, business
12 address, and a full description of the place or vehicle in which the tear gas or tear
13 gas weapon is to be transported, kept, installed, or maintained.

14 (b) If the tear gas or tear gas weapon is to be used in connection with, or to
15 constitute, a protective system, the application shall also contain the name of the
16 person who is to install the protective system.

17 (c) Applications and permits shall be uniform throughout the state upon forms
18 prescribed by the Department of Justice.

19 **Comment.** Section 23005 continues the first three paragraphs of former Section 12424 without
20 substantive change.

21 See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

22 **§ 23010. Permit fees and renewal process**

23 23010. (a) Each applicant for a permit shall pay, at the time of filing the
24 application, a fee determined by the Department of Justice, not to exceed the
25 application processing costs of the Department of Justice.

26 (b) A permit granted pursuant to this chapter may be renewed one year from the
27 date of issuance, and annually thereafter, upon the filing of a renewal application
28 and the payment of a permit renewal fee, not to exceed the application processing
29 costs of the Department of Justice.

30 (c) After the department establishes fees sufficient to reimburse the department
31 for processing costs, fees charged shall increase at a rate not to exceed the
32 legislatively approved annual cost-of-living adjustments for the department’s
33 budget.

34 **Comment.** Section 23010 continues the fourth paragraph of former Section 12424 without
35 substantive change.

36 See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

37 **§ 23015. Permit for bank or other financial institution**

38 23015. (a) Notwithstanding Section 23000, a bank, a savings and loan
39 association, a credit union, or an industrial loan company that maintains more than
40 one office or branch may make a single annual application for a permit.

(b) In addition to the requirements set forth in this chapter, an application under this section shall separately state the business address and a full description of each office or branch in which the tear gas or tear gas weapon is to be kept, installed, or maintained. Any location addition or deletion as to an office or branch shall be reported to the department within 60 days of the change.

(c) A single permit issued under this section shall allow for the possession, operation, and maintenance of tear gas at each office or branch named in the application, including any location change.

Comment. Section 20315 continues former Section 12424.5 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

§ 23020. Storage of permit

23020. Every person, firm or corporation to whom a permit is issued shall either carry the permit upon the person or keep it in the place described in the permit. The permit shall be open to inspection by any peace officer or other person designated by the authority issuing the permit.

Comment. Section 23020 continues former Section 12425 without substantive change.

§ 23025. Revocation or suspension of permit

23025. A permit issued in accordance with this chapter may be revoked or suspended by the issuing authority at any time when it appears that the need for the possession or transportation of the tear gas or tear gas weapon or protective system involving the use thereof, has ceased, or that the holder of the permit has engaged in an unlawful business or occupation or has wrongfully made use of the tear gas or tear gas weapon or the permit issued.

Comment. Section 23025 continues former Section 12426 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

TITLE 4. FIREARMS

DIVISION 1. PRELIMINARY PROVISIONS

§ 23500. Dangerous Weapons Control Law

23500. The provisions listed in Section 16580 shall be known and may be cited as “The Dangerous Weapons Control Law.”

Comment. Section 23500 continues former Section 12000 without substantive change.

§ 23505. Severability

23505. If any section, subsection, sentence, clause, or phrase of any provision listed in Section 16580 is for any reason held unconstitutional, that decision does not affect the validity of any other provision listed in Section 16580. The Legislature hereby declares that it would have passed the provisions listed in Section 16580 and each section, subsection, sentence, clause, and phrase of it,

1 irrespective of the fact that any one or more other sections, subsections, sentences,
2 clauses, or phrases be declared unconstitutional.

3 **Comment.** Section 23505 continues former Section 12003 without substantive change.

4 See also Section 12003, to the same effect as this provision.

5 **§ 23510. Distinct and separate offense despite reference to “any firearm”**

6 23510. For purposes of [Sections 12021, 12021.1, 12078, 12101, 12801], 25400,
7 26500, 27500 to 27590, inclusive, and 28100 of this code, and Sections 8100,
8 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that
9 the term “any firearm” may be used in those sections, each firearm or the frame or
10 receiver of each firearm constitutes a distinct and separate offense under those
11 sections.

12 **Comment.** Section 23510 continues former Section 12001(k) without substantive change.

13 See Section 16520 (“firearm”).

14 **§ 23515. Violent use of firearm**

15 23515. As used in the provisions listed in Section 16580, an offense that
16 involves the violent use of a firearm includes any of the following:

17 (a) A violation of paragraph (2) or (3) of subdivision (a) of Section 245 or a
18 violation of subdivision (d) of Section 245.

19 (b) A violation of Section 246.

20 (c) A violation of paragraph (2) of subdivision (a) of Section 417.

21 (d) A violation of subdivision (c) of Section 417.

22 **Comment.** Section 23515 continues former Section 12001.6 without substantive change.

23 See Section 16520 (“firearm”).

24 **DIVISION 2. FIREARM SAFETY DEVICES, GUN SAFES, AND**
25 **RELATED WARNINGS**

26 **§ 23620. Aroner-Scott-Hayden Firearms Safety Act of 1999**

27 23620. This division and Sections 16540, 16610, and 16870 shall be known and
28 may be cited as the “Aroner-Scott-Hayden Firearms Safety Act of 1999.”

29 **Comment.** Section 23620 continues former Section 12087 without substantive change.

30 **§ 23625. Legislative findings**

31 23625. The Legislature makes the following findings:

32 (a) In the years 1987 to 1996, nearly 2,200 children in the United States under
33 the age of 15 years died in unintentional shootings. In 1996 alone, 138 children
34 were shot and killed unintentionally. Thus, more than 11 children every month, or
35 one child every three days, were shot or killed unintentionally in firearms-related
36 incidents.

37 (b) The United States leads the industrialized world in the rates of children and
38 youth lost to unintentional, firearms-related deaths. A 1997 study from the federal

1 Centers for Disease Control and Prevention reveals that for unintentional firearm-
2 related deaths for children under the age of 15, the rate in the United States was
3 nine times higher than in 25 other industrialized countries combined.

4 (c) While the number of unintentional deaths from firearms is an unacceptable
5 toll on America's children, nearly eight times that number are treated in U.S.
6 hospital emergency rooms each year for nonfatal unintentional gunshot wounds.

7 (d) A study of unintentional firearm deaths among children in California found
8 that unintentional gunshot wounds most often involve handguns.

9 (e) A study in the December 1995 issue of the Archives of Pediatric and
10 Adolescent Medicine found that children as young as three years old are strong
11 enough to fire most commercially available handguns. The study revealed that 25
12 percent of three to four year olds and 70 percent of five to six year olds had
13 sufficient finger strength to fire 59 (92 percent) of the 64 commonly available
14 handguns referenced in the study.

15 (f) The Government Accounting Office (GAO), in its March 1991 study,
16 "Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could be
17 Prevented," estimates that 31 percent of accidental deaths caused by firearms
18 might be prevented by the addition of two safety devices: a child-resistant safety
19 device that automatically engages and a device that indicates whether the gun is
20 loaded. According to the study results, of the 107 unintentional firearms-related
21 fatalities the GAO examined for the calendar years 1988 and 1989, 8 percent could
22 have been prevented had the firearm been equipped with a child-resistant safety
23 device. This 8 percent represents instances in which children under the age of six
24 unintentionally shot and killed themselves or other persons.

25 (g) Currently, firearms are the only products manufactured in the United States
26 that are not subject to minimum safety standards.

27 (h) A 1997 public opinion poll conducted by the National Opinion Research
28 Center at the University of Chicago in conjunction with the Johns Hopkins Center
29 for Gun Policy and Research found that 74 percent of Americans support safety
30 regulation of the firearms industry.

31 (i) Some currently available trigger locks and other similar devices are
32 inadequate to prevent the accidental discharge of the firearms to which they are
33 attached, or to prevent children from gaining access to the firearm.

34 **Comment.** Section 23625 continues former Section 12087.5 without substantive change.

35 See Sections 16520 ("firearm"), 16640 ("handgun").

36 § 23630. Limitations on application

37 23630. (a) This division does not apply to the commerce of any antique firearm.

38 (b)(1) This division does not apply to the commerce of any firearm intended to
39 be used by a salaried, full-time peace officer, as defined in Chapter 4.5
40 (commencing with Section 830) of Title 3 of Part 2, for purposes of law
41 enforcement.

(2) Nothing in this division precludes a local government, local agency, or state law enforcement agency from requiring its peace officers to store their firearms in gun safes or attach firearm safety devices to those firearms.

Comment. In combination with Section 16170(b) (“antique firearm”), Section 23630 continues former Section 12088.8 without substantive change.

See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”).

§ 23635. Firearm safety device requirement, warning requirement for noncomplying long-gun safe, and warning described in Section 23640

23635. (a) Any firearm sold or transferred in this state by a licensed firearms dealer, including a private transfer through a dealer, and any firearm manufactured in this state, shall include or be accompanied by a firearm safety device that is listed on the Department of Justice’s roster of approved firearm safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm, or to the physical characteristics of the firearm that match those listed on the roster for use with the device.

(b) The sale or transfer of a firearm shall be exempt from subdivision (a) if both of the following apply:

(1) The purchaser or transferee owns a gun safe that meets the standards set forth in Section 23650. Gun safes shall not be required to be tested, and therefore may meet the standards without appearing on the Department of Justice roster.

(2) The purchaser or transferee presents an original receipt for purchase of the gun safe, or other proof of purchase or ownership of the gun safe as authorized by the Attorney General, to the firearms dealer. The dealer shall maintain a copy of this receipt or proof of purchase with the dealer’s record of sales of firearms.

(c) The sale or transfer of a firearm shall be exempt from subdivision (a) if all of the following apply:

(1) The purchaser or transferee purchases an approved safety device no more than 30 days prior to the day the purchaser or transferee takes possession of the firearm.

(2) The purchaser or transferee presents the approved safety device to the firearms dealer when picking up the firearm.

(3) The purchaser or transferee presents an original receipt to the firearms dealer, which shows the date of purchase, the name, and the model number of the safety device.

(4) The firearms dealer verifies that the requirements in paragraphs (1) to (3), inclusive, have been satisfied.

(5) The firearms dealer maintains a copy of the receipt along with the dealer’s record of sales of firearms.

(d)(1) Any long-gun safe commercially sold or transferred in this state, or manufactured in this state for sale in this state, that does not meet the standards for gun safes adopted pursuant to Section 23650 shall be accompanied by the following warning:

1 “WARNING: This gun safe does not meet the safety standards for gun safes
2 specified in California Penal Code Section 23650. It does not satisfy the
3 requirements of Penal Code Section 23635, which mandates that all firearms sold
4 in California be accompanied by a firearm safety device or proof of ownership, as
5 required by law, of a gun safe that meets the Section 23650 minimum safety
6 standards developed by the California Attorney General.”

7 (2) This warning shall be conspicuously displayed in its entirety on the principal
8 display panel of the gun safe’s package, on any descriptive materials that
9 accompany the gun safe, and on a label affixed to the front of the gun safe.

10 (3) This warning shall be displayed in both English and Spanish, in conspicuous
11 and legible type in contrast by typography, layout, or color with other printed
12 matter on the package or descriptive materials, in a manner consistent with Part
13 1500.121 of Title 16 of the Code of Federal Regulations, or successor regulations
14 thereto.

15 (e) Any firearm sold or transferred in this state by a licensed firearms dealer,
16 including a private transfer through a dealer, and any firearm manufactured in this
17 state, shall be accompanied by warning language or a label as described in Section
18 23640.

19 **Comment.** Subdivision (a) of Section 23635 continues former Section 12088.1(a) without
20 substantive change.

21 Subdivision (b) continues former Section 12088.1(d) without substantive change.

22 Subdivision (c) continues former Section 12088.1(e) without substantive change.

23 Subdivision (d) continues former Section 12088.1(c) without substantive change.

24 Subdivision (e) continues former Section 12088.1(b) without substantive change.

25 See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”), 16870
26 (“long-gun safe”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
27 26915, inclusive”).

28 § 23640. Warning label

29 23640. (a) The packaging of any firearm and any descriptive materials that
30 accompany any firearm sold or transferred in this state, or delivered for sale in this
31 state, by any licensed manufacturer, or licensed dealer, shall bear a label
32 containing the following warning statement:

33 WARNING

34 Children are attracted to and can operate firearms that
35 can cause severe injuries or death.

36 Prevent child access by always keeping guns locked
37 away and unloaded when not in use. If you keep a
38 loaded firearm where a child obtains and improperly
39 uses it, you may be fined or sent to prison.

40 A yellow triangle containing an exclamation mark shall appear immediately before
41 the word “Warning” on the label.

(b) If the firearm is sold or transferred without accompanying packaging, the warning label or notice shall be affixed to the firearm itself by a method to be prescribed by regulation of the Attorney General.

(c) The warning statement required under subdivisions (a) and (b) shall satisfy both of the following requirements:

(1) It shall be displayed in its entirety on the principal display panel of the firearm's package, and on any descriptive materials that accompany the firearm.

(2) It shall be displayed in both English and Spanish, in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on that package or descriptive materials, in a manner consistent with Part 1500.121 of Title 16, of the Code of Federal Regulations, or successor regulations thereto.

Comment. Section 23640 continues former Section 12088.3 without substantive change. See Section 16520 ("firearm").

§ 23645. Punishment for violation of Section 23635 or 23640

23645. (a) Any violation of Section 23635 or Section 23640 is punishable by a fine of one thousand dollars (\$1,000).

(b) On a second violation of any of those sections, a licensed firearm manufacturer shall be ineligible to manufacture, or a licensed firearm dealer shall be ineligible to sell, firearms in this state for 30 days, and shall be punished by a fine of one thousand dollars (\$1,000).

(c)(1) On a third violation of any of those sections, a firearm manufacturer shall be permanently ineligible to manufacture firearms in this state.

(2) On a third violation of any of those sections, a licensed firearm dealer shall be permanently ineligible to sell firearms in this state.

Comment. Section 23645 continues former Section 12088.6 without substantive change.

A violation of the predecessor of Section 23635 (former Section 12088.1) or the predecessor of Section 23640 (former Section 12088.3) counts as a prior violation in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).

See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

§ 23650. Minimum safety standard for firearm safety devices and gun safes

23650. (a) The Attorney General shall develop regulations to implement a minimum safety standard for firearm safety devices and gun safes to significantly reduce the risk of firearm-related injuries to children 17 years of age and younger. The final standard shall do all of the following:

(1) Address the risk of injury from unintentional gunshot wounds.

(2) Address the risk of injury from self-inflicted gunshot wounds by unauthorized users.

(3) Include provisions to ensure that all firearm safety devices and gun safes are reusable and of adequate quality and construction to prevent children and unauthorized users from firing the firearm and to ensure that these devices cannot be readily removed from the firearm or that the firearm cannot be readily removed

1 from the gun safe except by an authorized user utilizing the key, combination, or
2 other method of access intended by the manufacturer of the device.

3 (4) Include additional provisions as appropriate.

4 (b) The Attorney General may consult, for the purposes of guidance in
5 development of the standards, test protocols such as those described in Title 16
6 (commencing with Part 1700) of the Code of Federal Regulations, relating to
7 poison prevention packaging standards. These protocols may be consulted to
8 provide suggestions for potential methods to utilize in developing standards and
9 shall serve as guidance only. The Attorney General shall also give appropriate
10 consideration to the use of devices that are not detachable, but are permanently
11 installed and incorporated into the design of a firearm.

12 (c) The Attorney General shall commence development of regulations under this
13 section no later than January 1, 2000. The Attorney General shall adopt and issue
14 regulations implementing a final standard no later than January 1, 2001. The
15 Attorney General shall report to the Legislature on these standards by January 1,
16 2001. The final standard shall be effective January 1, 2002.

17 **Comment.** Section 23650 continues former Section 12088.2 without substantive change.
18 See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”).

19 **§ 23655. Testing of firearm safety devices**

20 23655. (a) The Department of Justice shall certify laboratories to verify
21 compliance with standards for firearm safety devices set forth in Section 23650.

22 (b) The Department of Justice may charge any laboratory that is seeking
23 certification to test firearm safety devices a fee not exceeding the costs of
24 certification, including costs associated with the development and approval of
25 regulations and standards pursuant to Section 23650.

26 (c) The certified laboratory shall, at the manufacturer’s or dealer’s expense, test
27 a firearm safety device and submit a copy of the final test report directly to the
28 Department of Justice, along with the firearm safety device. The department shall
29 notify the manufacturer or dealer of its receipt of the final test report and the
30 department’s determination as to whether the firearm safety device tested may be
31 sold in this state.

32 (d) Commencing on July 1, 2001, the Department of Justice shall compile,
33 publish, and maintain a roster listing all of the firearm safety devices that have
34 been tested by a certified testing laboratory, have been determined to meet the
35 department’s standards for firearm safety devices, and may be sold in this state.

36 (e) The roster shall list, for each firearm safety device, the manufacturer, model
37 number, and model name.

38 (f) The department may randomly retest samples obtained from sources other
39 than directly from the manufacturer of the firearm safety device listed on the roster
40 to ensure compliance with the requirements of this division.

(g) Firearm safety devices used for random sample testing and obtained from sources other than the manufacturer shall be in new, unused condition, and still in the manufacturer's original and unopened package.

Comment. Section 23655 continues former Section 12088 without substantive change.

See Sections 16520 ("firearm"), 16540 ("firearm safety device"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

§ 23660. Sale, distribution, or manufacture of unlisted or noncomplying firearm safety device

23660. (a) No person shall keep for commercial sale, offer, or expose for commercial sale, or commercially sell any firearm safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 23655, or that does not comply with the standards for firearm safety devices adopted pursuant to Section 23650.

(b) No person may distribute as part of an organized firearm safety program, with or without consideration, any firearm safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 23655, or that does not comply with the standards for firearm safety devices adopted pursuant to Section 23650.

Comment. Subdivision (a) of Section 23660 continues former Section 12088.15(a) without substantive change.

Subdivision (b) continues former Section 12088.15(b) without substantive change.

See Sections 16520 ("firearm"), 16540 ("firearm safety device").

§ 23665. Sale or manufacture of noncomplying long-gun safe

23665. (a) No long-gun safe may be manufactured in this state for sale in this state that does not comply with the standards for gun safes adopted pursuant to Section 23650, unless the long-gun safe is labeled by the manufacturer consistent with the requirements of Section 23635.

(b)(1) Any person who keeps for commercial sale, offers, or exposes for commercial sale, or who commercially sells a long-gun safe that does not comply with the standards for gun safes adopted pursuant to Section 23650, and who knows or has reason to know, that the long-gun safe in question does not meet the standards for gun safes adopted pursuant to Section 23650, is in violation of this section, and is punishable as provided in Section 23670, unless the long-gun safe is labeled pursuant to Section 23635.

(2) Any person who keeps for commercial sale, offers, or exposes for commercial sale, or who commercially sells a long-gun safe that does not comply with the standards for gun safes adopted pursuant to Section 23650, and who removes or causes to be removed, from the long-gun safe, the label required pursuant to Section 23635, is in violation of this section, and is punishable as provided in Section 23670.

Comment. Subdivision (a) of Section 23665 continues former Section 12088.15(c) without substantive change.

Subdivision (b) continues former Section 12088.15(d) without substantive change.

1 See Sections 16610 (“gun safe”), 16870 (“long-gun safe”).

2 **§ 23670. Punishment for violation of Section 23660 or 23665**

3 23670. (a)(1) A violation of Section 23660 or 23665 is punishable by a civil fine
4 of up to five hundred dollars (\$500).

5 (2) A second violation of any of those sections, which occurs within five years
6 of the date of a previous offense, is punishable by a civil fine of up to one
7 thousand dollars (\$1,000) and, if the violation is committed by a licensed firearms
8 dealer, the dealer shall be ineligible to sell firearms in this state for 30 days.

9 (3) A third or subsequent violation that occurs within five years of two or more
10 previous offenses is punishable by a civil fine of up to five thousand dollars
11 (\$5,000) and, if the violation is committed by a licensed firearms dealer, the
12 firearms dealer shall be permanently ineligible to sell firearms in this state.

13 (b) The Attorney General, a district attorney, or a city attorney may bring a civil
14 action for a violation of Section 23660 or 23665.

15 **Comment.** Subdivision (a) of Section 23670 continues former Section 12088.15(e) without
16 substantive change.

17 Subdivision (b) continues former Section 12088.15(f) without substantive change.

18 A violation of the predecessor of Section 23660 (former Section 12088.15(a)) or the
19 predecessor of Section 23665 (former Section 12088.15(c)-(d)) counts as a prior violation in
20 determining the appropriate punishment under this section. See Section 16015 (determining
21 existence of prior conviction).

22 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
23 Sections 26700 to 26915, inclusive”).

24 **§ 23675. Effect of compliance**

25 23675. Compliance with the requirements set forth in this division does not
26 relieve any person from liability to any other person as may be imposed pursuant
27 to common law, statutory law, or local ordinance.

28 **Comment.** Section 23675 continues former Section 12088.7 without substantive change.

29 **§ 23680. Recall, replacement, or correction of nonconforming device**

30 23680. (a) If at any time the Attorney General determines that a gun safe or
31 firearm safety device subject to the provisions of this division and sold after
32 January 1, 2002, does not conform with the standards required by subdivision (a)
33 of Section 23635 or Section 23650, the Attorney General may order the recall and
34 replacement of the gun safe or firearm safety device, or order that the gun safe or
35 firearm safety device be brought into conformity with those requirements.

36 (b) If the firearm safety device can be separated and reattached to the firearm
37 without damaging the firearm, the licensed manufacturer or licensed firearms
38 dealer shall immediately provide a conforming replacement as instructed by the
39 Attorney General.

40 (c) If the firearm safety device cannot be separated from the firearm without
41 damaging the firearm, the Attorney General may order the recall and replacement
42 of the firearm.

1 **Comment.** Section 23680 continues former Section 12088.4 without substantive change.
2 See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”), 26700
3 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

4 **§ 23685. Report of incident in which child suffers unintentional or self-inflicted gunshot**
5 **wound**

6 23685. Each lead law enforcement agency investigating an incident shall report
7 to the State Department of Health Services any information obtained that
8 reasonably supports the conclusion that:

9 (a) A child 18 years of age or younger suffered an unintentional or self-inflicted
10 gunshot wound inflicted by a firearm that was sold or transferred in this state, or
11 manufactured in this state.

12 (b) Whether as a result of that incident the child died, suffered serious injury, or
13 was treated for an injury by a medical professional.

14 **Comment.** Section 23685 continues former Section 12088.5 without change.
15 See Section 16520 (“firearm”).

16 **§ 23690. Fee**

17 23690. (a)(1) The Department of Justice may require each dealer to charge each
18 firearm purchaser or transferee a fee not to exceed one dollar (\$1) for each firearm
19 transaction.

20 (2) The fee shall be for the purpose of supporting department program costs
21 related to this act, including the establishment, maintenance, and upgrading of
22 related database systems and public rosters.

23 (b)(1) There is hereby created within the General Fund the Firearm Safety
24 Account.

25 (2) Revenue from the fee imposed by subdivision (a) shall be deposited into the
26 Firearm Safety Account and shall be available for expenditure by the Department
27 of Justice upon appropriation by the Legislature.

28 (3) Expenditures from the Firearm Safety Account shall be limited to program
29 expenditures as defined by subdivision (a).

30 **Comment.** Section 23690 continues former Section 12088.9 without substantive change.

31 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
32 Sections 26700 to 26915, inclusive”).

33 **DIVISION 3. DISGUISED OR MISLEADING APPEARANCE**

34 **CHAPTER 1. MISCELLANEOUS PROVISIONS**

35 **§ 23800. Bright orange or bright green firearm**

36 23800. Any person who, for commercial purposes, purchases, sells,
37 manufactures, ships, transports, distributes, or receives a firearm, where the
38 coloration of the entire exterior surface of the firearm is bright orange or bright

1 green, either singly, in combination, or as the predominant color in combination
2 with other colors in any pattern, is liable for a civil fine in an action brought by the
3 city attorney of the city, or the district attorney for the county, of not more than ten
4 thousand dollars (\$10,000).

5 **Comment.** Section 23800 continues former Section 12020.3 without substantive change.
6 See Section 16520 (“firearm”).

7 CHAPTER 2. OBLITERATION OF IDENTIFICATION MARKS

8 § 23900. Obliteration of firearm identification marks prohibited

9 23900. Any person who changes, alters, removes, or obliterates the name of the
10 maker, model, manufacturer’s number, or other mark of identification, including
11 any distinguishing number or mark assigned by the Department of Justice, on any
12 pistol, revolver, or any other firearm, without first having secured written
13 permission from the department to make that change, alteration, or removal shall
14 be punished by imprisonment in the state prison.

15 **Comment.** Section 23900 continues former Section 12090 without substantive change.

16 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
17 “pistol,” and “revolver”).

18 § 23905. Presumption

19 23905. Possession of any pistol or revolver upon which the name of the maker,
20 model, manufacturer’s number or other mark of identification has been changed,
21 altered, removed, or obliterated, shall be presumptive evidence that the possessor
22 has changed, altered, removed, or obliterated the same.

23 **Comment.** Section 23905 continues former Section 12091 without change. Continuation of
24 this material is not intended to reflect any determination regarding its constitutionality. See
25 Section 16025. For a case discussing the constitutionality of former Section 12091, see *In re*
26 *Christopher K.*, 91 Cal. App. 4th 853, 110 Cal. Rptr. 914 (2001).

27 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
28 “revolver”).

29 § 23910. Assignment of number or mark when firearm lacks one

30 23910. The Department of Justice upon request may assign a distinguishing
31 number or mark of identification to any firearm whenever the firearm lacks a
32 manufacturer’s number or other mark of identification, or whenever the
33 manufacturer’s number or other mark of identification or a distinguishing number
34 or mark assigned by the department has been destroyed or obliterated.

35 **Comment.** Section 23910 continues former Section 12092 without substantive change.

36 See Section 16520 (“firearm”).

37 § 23915. Additional number or identifying indicium

38 23915. (a) Any person may place or stamp on any pistol, revolver, or other
39 firearm any number or identifying indicium, provided the number or identifying

indicium does not change, alter, remove, or obliterate the manufacturer's name, number, model, or other mark of identification.

(b) This section does not prohibit restoration by the owner of the name of the maker or model, or of the original manufacturer's number or other mark of identification, when that restoration is authorized by the department.

(c) This section does not prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer's number, or other mark of identification upon a new firearm.

Comment. Section 23915 continues former Section 12093 without substantive change.

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver").

§ 23920. Possession, sale, or purchase of firearm with knowledge of obliteration of identifying number or mark

23920. Except as provided in Section 23925, any person who, with knowledge of any change, alteration, removal, or obliteration described in this section, buys, receives, disposes of, sells, offers for sale, or has in possession any pistol, revolver, or other firearm that has had the name of the maker or model, or the manufacturer's number or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, changed, altered, removed, or obliterated, is guilty of a misdemeanor.

Comment. Section 23920 continues former Section 12094(a) without substantive change.

For circumstances in which this section is inapplicable, see Section 23925 (exemptions).

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver").

§ 23925. Exemptions

23925. Section 23920 does not apply to any of the following:

(a) The acquisition or possession of a firearm described in Section 23920 by any member of the military forces of this state or of the United States, while on duty and acting within the scope and course of employment.

(b) The acquisition or possession of a firearm described in Section 23920 by any peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, while on duty and acting within the scope and course of employment.

(c) The acquisition or possession of a firearm described in Section 23920 by any employee of a forensic laboratory, while on duty and acting within the scope and course of employment.

(d) The possession and disposition of a firearm described in Section 23920 by a person who meets all of the following:

(1) The person is not prohibited from possessing firearms or ammunition pursuant to [Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code], or Section 8100 or 8103 of the Welfare and Institutions Code.

(2) The person possessed the firearm no longer than was necessary to deliver it to a law enforcement agency for that agency's disposition according to law.

(3) If the person is transporting the firearm, the person is transporting it to a law enforcement agency in order to deliver it to the agency for the agency's disposition according to law.

(4) If the person is transporting the firearm to a law enforcement agency, the person has given prior notice to the agency that the person is transporting the firearm to that agency for the agency's disposition according to law.

(5) The firearm is transported in a locked container as defined in Section 16850.

Comment. Section 23925 continues former Section 12094(b) without substantive change. See Section 16520 ("firearm").

CHAPTER 3. CAMOUFLAGING FIREARM CONTAINER

§ 24310. Prohibition on manufacture, import, sale, gift, loan, or possession of camouflaging firearm container

24310. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any camouflaging firearm container is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to a camouflaging firearm container, Section 24310 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 ("generally prohibited weapon"), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16320 ("camouflaging firearm container"). See also Sections 17800 (distinct and separate offense), 24390 (camouflaging firearm container constituting nuisance).

§ 24390. Camouflaging firearm container constituting nuisance

24390. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any camouflaging firearm container is a nuisance and is subject to Section 18010.

Comment. With respect to a camouflaging firearm container, Section 24390 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16320 ("camouflaging firearm container").

CHAPTER 4. CANE GUN

§ 24410. Prohibition on manufacture, import, sale, gift, loan, or possession of cane gun

24410. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale,

1 or who gives, lends, or possesses any cane gun is punishable by imprisonment in a
2 county jail not exceeding one year or in the state prison.

3 **Comment.** With respect to a cane gun, Section 24410 continues former Section 12020(a)(1)
4 without substantive change.

5 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
6 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

7 See Section 16330 (“cane gun”). See also Sections 17800 (distinct and separate offense),
8 24490 (cane gun constituting nuisance).

9 **§ 24490. Cane gun constituting nuisance**

10 24490. Except as provided in Chapter 1 (commencing with Section 17700) of
11 Division 2 of Title 2, any cane gun is a nuisance and is subject to Section 18010.

12 **Comment.** With respect to a cane gun, Section 24490 continues the first part of the first
13 sentence of former Section 12029 without substantive change.

14 See Section 16330 (“cane gun”).

15 **CHAPTER 5. FIREARM NOT IMMEDIATELY RECOGNIZABLE AS A FIREARM**

16 **§ 24510. Prohibition on manufacture, import, sale, gift, loan, or possession of firearm not**
17 **immediately recognizable as firearm**

18 24510. Except as provided in Chapter 1 (commencing with Section 17700) of
19 Division 2 of Title 2, any person in this state who manufactures or causes to be
20 manufactured, imports into the state, keeps for sale, or offers or exposes for sale,
21 or who gives, lends, or possesses any firearm not immediately recognizable as a
22 firearm is punishable by imprisonment in a county jail not exceeding one year or
23 in the state prison.

24 **Comment.** With respect to a firearm that is not immediately recognizable as a firearm, Section
25 24510 continues former Section 12020(a)(1) without substantive change.

26 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
27 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

28 See Section 16520 (“firearm”). See also Sections 17800 (distinct and separate offense), 24590
29 (firearm not immediately recognizable as such constitutes nuisance).

30 **§ 24590. Firearm not immediately recognizable as such constitutes nuisance**

31 24590. Except as provided in Chapter 1 (commencing with Section 17700) of
32 Division 2 of Title 2, any firearm not immediately recognizable as a firearm is a
33 nuisance and is subject to Section 18010.

34 **Comment.** With respect to a firearm that is not immediately recognizable as a firearm, Section
35 24590 continues the first part of the first sentence of former Section 12029 without substantive
36 change.

37 See Section 16520 (“firearm”).

1 CHAPTER 6. UNDETECTABLE FIREARM AND
2 FIREARM DETECTION EQUIPMENT

3 **§ 24610. Prohibition on manufacture, import, sale, gift, loan, or possession of undetectable**
4 **firearm**

5 24610. Except as provided in Chapter 1 (commencing with Section 17700) of
6 Division 2 of Title 2, any person in this state who manufactures or causes to be
7 manufactured, imports into the state, keeps for sale, or offers or exposes for sale,
8 or who gives, lends, or possesses any undetectable firearm is punishable by
9 imprisonment in a county jail not exceeding one year or in the state prison.

10 **Comment.** With respect to an undetectable firearm, Section 24610 continues former Section
11 12020(a)(1) without substantive change.

12 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
13 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

14 See Section 17280 (“undetectable firearm”). See also Sections 17800 (distinct and separate
15 offense), 24690 (undetectable firearm constituting nuisance).

16 **§ 24680. Firearm detection equipment**

17 24680. Any firearm detection equipment newly installed in a nonfederal public
18 building in this state shall be of a type identified by either the United States
19 Attorney General, the Secretary of Transportation, or the Secretary of the
20 Treasury, as appropriate, as available state-of-the-art equipment capable of
21 detecting an undetectable firearm, while distinguishing innocuous metal objects
22 likely to be carried on one’s person sufficient for reasonable passage of the public.

23 **Comment.** Section 24680 continues the second paragraph of former Section 12020(c)(22)(C)
24 without substantive change.

25 See Sections 16520 (“firearm”), 17280 (“undetectable firearm”).

26 **§ 24690. Undetectable firearm constituting nuisance**

27 24690. Except as provided in Chapter 1 (commencing with Section 17700) of
28 Division 2 of Title 2, any undetectable firearm is a nuisance and is subject to
29 Section 18010.

30 **Comment.** With respect to an undetectable firearm, Section 24690 continues the first part of
31 the first sentence of former Section 12029 without substantive change.

32 See Section 17280 (“undetectable firearm”).

33 CHAPTER 7. WALLET GUN

34 **§ 24710. Prohibition on manufacture, import, sale, gift, loan, or possession of wallet gun**

35 24710. Except as provided in Chapter 1 (commencing with Section 17700) of
36 Division 2 of Title 2, any person in this state who manufactures or causes to be
37 manufactured, imports into the state, keeps for sale, or offers or exposes for sale,
38 or who gives, lends, or possesses any wallet gun is punishable by imprisonment in
39 a county jail not exceeding one year or in the state prison.

1 **Comment.** With respect to a wallet gun, Section 24710 continues former Section 12020(a)(1)
2 without substantive change.

3 For circumstances in which this section is inapplicable, see Sections 16590 (“generally
4 prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

5 See Section 17330 (“wallet gun”). See also Sections 17800 (distinct and separate offense),
6 24790 (wallet gun constituting nuisance).

7 **§ 24790. Wallet gun constituting nuisance**

8 24790. Except as provided in Chapter 1 (commencing with Section 17700) of
9 Division 2 of Title 2, any wallet gun is a nuisance and is subject to Section 18010.

10 **Comment.** With respect to a wallet gun, Section 24790 continues the first part of the first
11 sentence of former Section 12029 without substantive change.

12 See Section 17330 (“wallet gun”).

13 DIVISION 4. STORAGE OF FIREARMS

14 CHAPTER 1. PRELIMINARY PROVISIONS

15 **§ 25000. “Child”**

16 25000. As used in this division, “child” means a person under 18 years of age.

17 **Comment.** Section 25000 continues former Sections 12035(a)(3) and 12036(a)(2) without
18 substantive change.

19 CHAPTER 2. CRIMINAL STORAGE OF FIREARM

20 **§ 25100. Criminal storage of firearm**

21 25100. (a) Except as provided in Section 25105, a person commits the crime of
22 “criminal storage of a firearm of the first degree” if all of the following conditions
23 are satisfied:

24 (1) The person keeps any loaded firearm within any premises that are under the
25 person’s custody or control.

26 (2) The person knows or reasonably should know that a child is likely to gain
27 access to the firearm without the permission of the child’s parent or legal guardian.

28 (3) The child obtains access to the firearm and thereby causes death or great
29 bodily injury to the child or any other person.

30 (b) Except as provided in Section 25105, a person commits the crime of
31 “criminal storage of a firearm of the second degree” if all of the following
32 conditions are satisfied:

33 (1) The person keeps any loaded firearm within any premises that are under the
34 person’s custody or control.

35 (2) The person knows or reasonably should know that a child is likely to gain
36 access to the firearm without the permission of the child’s parent or legal guardian.

(3) The child obtains access to the firearm and thereby causes injury, other than great bodily injury, to the child or any other person, or carries the firearm either to a public place or in violation of Section 417.

Comment. Subdivision (a) of Section 25100 continues former Section 12035(b)(1) without substantive change.

Subdivision (b) continues former Section 12035(b)(2) without substantive change.

For a provision requiring a firearms dealer to post a notice with warnings about firearm storage, see Section 26835.

See Sections 16520 (“firearm”), 16600 (“great bodily injury”), 16840 (“loaded” and “loaded firearm”), 25000 (“child”).

§ 25105. Exceptions

25105. Section 25100 does not apply whenever any of the following occurs:

(a) The child obtains the firearm as a result of an illegal entry to any premises by any person.

(b) The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure.

(c) The firearm is carried on the person or within close enough proximity thereto that the individual can readily retrieve and use the firearm as if carried on the person.

(d) The firearm is locked with a locking device, as defined in Section 16860, which has rendered the firearm inoperable.

(e) The person is a peace officer or a member of the armed forces or the National Guard and the child obtains the firearm during, or incidental to, the performance of the person’s duties.

(f) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person.

(g) The person who keeps a loaded firearm on any premise that is under the person’s custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.

Comment. Section 25105 continues former Section 12035(c) without substantive change.

See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”), 16850 (“locked container”), 25000 (“child”).

§ 25110. Punishment

25110. (a) Criminal storage of a firearm in the first degree is punishable by imprisonment in the state prison for 16 months, or two or three years, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine; or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(b) Criminal storage of a firearm in the second degree is punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

Comment. Section 25110 continues former Section 12035(d) without substantive change.

See Section 25100 (criminal storage of firearm).

1 **§ 25115. Prosecution of parent or guardian**

2 25115. If a person who allegedly violated Section 25100 is the parent or
3 guardian of a child who is injured or who dies as the result of an accidental
4 shooting, the district attorney shall consider, among other factors, the impact of
5 the injury or death on the person alleged to have violated Section 25100 when
6 deciding whether to prosecute the alleged violation. It is the Legislature's intent
7 that a parent or guardian of a child who is injured or who dies as the result of an
8 accidental shooting shall be prosecuted only in those instances in which the parent
9 or guardian behaved in a grossly negligent manner or where similarly egregious
10 circumstances exist. This section shall not otherwise restrict, in any manner, the
11 factors that a district attorney may consider when deciding whether to prosecute an
12 alleged violation of Section 25100.

13 **Comment.** Section 25115 continues former Section 12035(e) without substantive change.
14 See Section 25000 ("child").

15 **§ 25120. Timing of prosecution of parent or guardian**

16 25120. (a) If a person who allegedly violated Section 25100 is the parent or
17 guardian of a child who was injured or who died as the result of an accidental
18 shooting, no arrest of the person for the alleged violation of Section 25100 shall
19 occur until at least seven days after the date upon which the accidental shooting
20 occurred.

21 (b) In addition to the limitation stated in subdivision (a), before arresting a
22 person for a violation of Section 25100, a law enforcement officer shall consider
23 the health status of a child who suffered great bodily injury as the result of an
24 accidental shooting, if the person to be arrested is the parent or guardian of the
25 injured child. The intent of this section is to encourage law enforcement officials
26 to delay the arrest of a parent or guardian of a seriously injured child while the
27 child remains on life-support equipment or is in a similarly critical medical
28 condition.

29 **Comment.** Section 25120 continues former Section 12035(f) without substantive change.
30 See Sections 16600 ("great bodily injury"), 25000 ("child").

31 **§ 25125. Impact of attending firearm safety training course**

32 25125. (a) The fact that a person who allegedly violated Section 25100 attended
33 a firearm safety training course prior to the purchase of the firearm that was
34 obtained by a child in violation of Section 25100 shall be considered a mitigating
35 factor by a district attorney when deciding whether to prosecute the alleged
36 violation.

37 (b) In any action or trial commenced under Section 25100, the fact that the
38 person who allegedly violated Section 25100 attended a firearm safety training
39 course prior to the purchase of the firearm that was obtained by a child in violation
40 of Section 25100 is admissible.

41 **Comment.** Section 25125 continues former Section 12035(g) without substantive change.
42 See Sections 16520 ("firearm"), 25000 ("child").

1 **§ 25130. Posting of required notice**

2 25130. Every person licensed under Sections 26700 to 26915, inclusive, shall
3 post within the licensed premises the notice required by Section 26835, disclosing
4 the duty imposed by this chapter upon any person who keeps a loaded firearm.

5 **Comment.** Section 25130 continues former Section 12035(h) without substantive change.
6 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

7 CHAPTER 3. STORAGE OF FIREARM WHERE CHILD OBTAINS ACCESS AND
8 CARRIES FIREARM OFF-PREMISES

9 **§ 25200. Storage of firearm where child obtains access and carries firearm off-premises**

10 25200. (a) If all of the following conditions are satisfied, a person shall be
11 punished by imprisonment in a county jail not exceeding one year, by a fine not
12 exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine:

13 (1) The person keeps a pistol, revolver, or other firearm capable of being
14 concealed upon the person, loaded or unloaded, within any premises that are under
15 the person’s custody or control.

16 (2) The person knows or reasonably should know that a child is likely to gain
17 access to that firearm without the permission of the child’s parent or legal
18 guardian.

19 (3) The child obtains access to that firearm and thereafter carries that firearm
20 off-premises.

21 (b) If all of the following conditions are satisfied, a person shall be punished by
22 imprisonment in a county jail not exceeding one year, by a fine not exceeding five
23 thousand dollars (\$5,000), or by both that imprisonment and fine:

24 (1) The person keeps any firearm within any premises that are under the
25 person’s custody or control.

26 (2) The person knows or reasonably should know that a child is likely to gain
27 access to the firearm without the permission of the child’s parent or legal guardian.

28 (3) The child obtains access to the firearm and thereafter carries that firearm off-
29 premises to any public or private preschool, elementary school, middle school,
30 high school, or to any school-sponsored event, activity, or performance, whether
31 occurring on school grounds or elsewhere.

32 (c) A pistol, revolver, or other firearm capable of being concealed upon the
33 person that a child gains access to and carries off-premises in violation of this
34 section shall be deemed “used in the commission of any misdemeanor as provided
35 in this code or any felony” for the purpose of [Section 12028(b)] regarding the
36 authority to confiscate firearms and other deadly weapons as a nuisance.

37 (d) As used in this section, “off-premises” means premises other than the
38 premises where the firearm was stored.

39 **Comment.** Subdivision (a) of Section 25200 continues former Section 12036(b) without
40 substantive change.

41 Subdivision (b) continues former Section 12036(c) without substantive change.

1 Subdivision (c) continues former Section 12036(d) without substantive change.
2 Subdivision (d) continues former Section 12036(a)(3) without substantive change.
3 For circumstances in which this section does not apply, see Section 25205. For a provision
4 requiring a firearms dealer to post a notice with warnings about firearm storage, see Section
5 26835.

6 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
7 “pistol,” and “revolver”), 25000 (“child”).

8 **§ 25205. Exceptions**

9 25205. Section 25200 does not apply if any of the following are true:

10 (a) The child obtains the firearm as a result of an illegal entry into any premises
11 by any person.

12 (b) The firearm is kept in a locked container or in a location that a reasonable
13 person would believe to be secure.

14 (c) The firearm is locked with a locking device, as defined in Section 16860,
15 which has rendered the firearm inoperable.

16 (d) The firearm is carried on the person within close enough range that the
17 individual can readily retrieve and use the firearm as if carried on the person.

18 (e) The person is a peace officer or a member of the Armed Forces or National
19 Guard and the child obtains the firearm during, or incidental to, the performance
20 of the person’s duties.

21 (f) The child obtains, or obtains and discharges, the firearm in a lawful act of
22 self-defense or defense of another person.

23 (g) The person who keeps a firearm has no reasonable expectation, based on
24 objective facts and circumstances, that a child is likely to be present on the
25 premises.

26 **Comment.** Section 25205 continues former Section 12036(e) without substantive change.

27 See Sections 16520 (“firearm”), 16850 (“locked container”), 25000 (“child”).

28 **§ 25210. Prosecution of parent or guardian**

29 25210. If a person who allegedly violated Section 25200 is the parent or
30 guardian of a child who is injured or who dies as the result of an accidental
31 shooting, the district attorney shall consider, among other factors, the impact of
32 the injury or death on the person alleged to have violated Section 25200 when
33 deciding whether to prosecute the alleged violation. It is the Legislature’s intent
34 that a parent or guardian of a child who is injured or who dies as the result of an
35 accidental shooting shall be prosecuted only in those instances in which the parent
36 or guardian behaved in a grossly negligent manner or where similarly egregious
37 circumstances exist. This section shall not otherwise restrict, in any manner, the
38 factors that a district attorney may consider when deciding whether to prosecute
39 alleged violations of Section 25200.

40 **Comment.** Section 25210 continues former Section 12036(f) without substantive change.

41 See Section 25000 (“child”).

1 **§ 25215. Timing of prosecution of parent or guardian**

2 25215. (a) If a person who allegedly violated Section 25200 is the parent or
3 guardian of a child who was injured or who died as the result of an accidental
4 shooting, no arrest of the person for the alleged violation of Section 25200 shall
5 occur until at least seven days after the date upon which the accidental shooting
6 occurred.

7 (b) In addition to the limitation contained in subdivision (a), before arresting a
8 person for a violation of Section 25200, a law enforcement officer shall consider
9 the health status of a child who suffers great bodily injury as the result of an
10 accidental shooting, if the person to be arrested is the parent or guardian of the
11 injured child. The intent of this section is to encourage law enforcement officials
12 to delay the arrest of a parent or guardian of a seriously injured child while the
13 child remains on life-support equipment or is in a similarly critical medical
14 condition.

15 **Comment.** Section 25215 continues former Section 12036(g) without substantive change.
16 See Sections 16600 (“great bodily injury”), 25000 (“child”).

17 **§ 25220. Impact of attending firearm safety training course**

18 25220. (a) The fact that the person who allegedly violated Section 25200
19 attended a firearm safety training course prior to the purchase of the firearm that is
20 obtained by a child in violation of Section 25200 shall be considered a mitigating
21 factor by a district attorney when deciding whether to prosecute the alleged
22 violation.

23 (b) In any action or trial commenced under Section 25200, the fact that the
24 person who allegedly violated Section 25200 attended a firearm safety training
25 course prior to the purchase of the firearm that was obtained by a child in violation
26 of Section 25200 is admissible.

27 **Comment.** Section 25220 continues former Section 12036(h) without substantive change.
28 See Sections 16520 (“firearm”), 25000 (“child”).

29 **§ 25225. Posting of required notice**

30 25225. Every person licensed under Sections 26700 to 26915, inclusive, shall
31 post within the licensed premises the notice required by Section 26835, disclosing
32 the duty imposed by this chapter upon any person who keeps any firearm.

33 **Comment.** Section 25225 continues former Section 12036(i) without substantive change.
34 See Section 16520 (“firearm”).

DIVISION 5. CARRYING FIREARMS

CHAPTER 1. MISCELLANEOUS RULES RELATING TO CARRYING FIREARMS

§ 25300. Carrying firearm in public while masked to hide identity

25300. (a) A person commits criminal possession of a firearm when the person carries a firearm in a public place or on any public street while masked so as to hide the person's identity.

(b) Criminal possession of a firearm is punishable by imprisonment in the state prison or by imprisonment in a county jail not to exceed one year.

(c) Subdivision (a) does not apply to any of the following:

(1) A peace officer in performance of the officer's duties.

(2) A full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state.

(3) Any person summoned by any of the officers enumerated in paragraph (1) or (2) to assist in making an arrest or preserving the peace while that person is actually engaged in assisting that officer.

(4) The possession of an unloaded firearm or a firearm loaded with blank ammunition by an authorized participant in, or while rehearsing for, a motion picture, television, video production, entertainment event, entertainment activity, or lawfully organized and conducted activity when the participant lawfully uses the firearm as part of that production, event, or activity.

(5) The possession of a firearm by a licensed hunter while actually engaged in lawful hunting, or while going directly to or returning directly from the hunting expedition.

Comment. Section 25300 continues former Section 12040 without substantive change. See Section 16520 ("firearm").

CHAPTER 2. CARRYING A CONCEALED FIREARM

Article 1. Crime of Carrying a Concealed Firearm

§ 25400. Crime of carrying concealed firearm

25400. (a) A person is guilty of carrying a concealed firearm when the person does any of the following:

(1) Carries concealed within any vehicle that is under the person's control or direction any pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Carries concealed upon the person any pistol, revolver, or other firearm capable of being concealed upon the person.

1 (3) Causes to be carried concealed within any vehicle in which the person is an
2 occupant any pistol, revolver, or other firearm capable of being concealed upon
3 the person.

4 (b) A firearm carried openly in a belt holster is not concealed within the
5 meaning of this section.

6 (c) Carrying a concealed firearm in violation of this section is punishable as
7 follows:

8 (1) If the person previously has been convicted of any felony, or of any crime
9 made punishable by a provision listed in Section 16580, as a felony.

10 (2) If the firearm is stolen and the person knew or had reasonable cause to
11 believe that it was stolen, as a felony.

12 (3) If the person is an active participant in a criminal street gang, as defined in
13 subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and
14 Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part
15 1), as a felony.

16 (4) If the person is not in lawful possession of the firearm or the person is within
17 a class of persons prohibited from possessing or acquiring a firearm pursuant to
18 [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare
19 and Institutions Code, as a felony.

20 (5) If the person has been convicted of a crime against a person or property, or
21 of a narcotics or dangerous drug violation, by imprisonment in the state prison, or
22 by imprisonment in a county jail not to exceed one year, by a fine not to exceed
23 one thousand dollars (\$1,000), or by both that imprisonment and fine.

24 (6) If both of the following conditions are met, by imprisonment in the state
25 prison, or by imprisonment in a county jail not to exceed one year, by a fine not to
26 exceed one thousand dollars (\$1,000), or by both that fine and imprisonment:

27 (A) The pistol, revolver, or other firearm capable of being concealed upon the
28 person is loaded, or both it and the unexpended ammunition capable of being
29 discharged from it are in the immediate possession of the person or readily
30 accessible to that person.

31 (B) The person is not listed with the Department of Justice pursuant to
32 paragraph (1) of subdivision (c) of Section 11106 as the registered owner of that
33 pistol, revolver, or other firearm capable of being concealed upon the person.

34 (7) In all cases other than those specified in paragraphs (1) to (6), inclusive, by
35 imprisonment in a county jail not to exceed one year, by a fine not to exceed one
36 thousand dollars (\$1,000), or by both that imprisonment and fine.

37 (d)(1) Every person convicted under this section who previously has been
38 convicted of a misdemeanor offense enumerated in Section 23515 shall be
39 punished by imprisonment in a county jail for at least three months and not
40 exceeding six months, or, if granted probation, or if the execution or imposition of
41 sentence is suspended, it shall be a condition thereof that the person be imprisoned
42 in a county jail for at least three months.

(2) Every person convicted under this section who has previously been convicted of any felony, or of any crime made punishable by a provision listed in Section 16580, if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that the person be imprisoned in a county jail for not less than three months.

(e) The court shall apply the three-month minimum sentence as specified in subdivision (d), except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in subdivision (d) or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivision (d), in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(f) A peace officer may arrest a person for a violation of paragraph (6) of subdivision (c) if the peace officer has probable cause to believe that the person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of the pistol, revolver, or other firearm capable of being concealed upon the person, and one or more of the conditions in subparagraph (A) of paragraph (6) of subdivision (c) is met.

Comment. Subdivision (a) of Section 25400 continues former Section 12025(a) without substantive change.

Subdivision (b) continues former Section 12025(f) without substantive change.

Subdivision (c) continues former Section 12025(b) without substantive change. Subdivision (d) continues former Section 12025 (d) without substantive change. For guidance in applying paragraphs (c)(1) and (d)(2), see Section 16015 (determining existence of prior conviction).

Subdivision (e) continues former Section 12025(e) without substantive change.

Subdivision (f) continues former Section 12025(c) without substantive change.

Former Section 12025(g) is continued in Section 16750 ("lawful possession of the firearm").

Former Section 12025(h) was repealed by its own terms on January 1, 2005, so it is not continued. See 1999 Cal. Stat. ch. 571, § 2.

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 16750 ("lawful possession of the firearm"), 16840 ("loaded" and "loaded firearm").

Article 2. Peace Officer Exemption

§ 25450. Peace officer exemption

25450. As provided in this article, Section 25400 does not apply to, or affect, any of the following:

(a) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired.

(b) Any other duly appointed peace officer.

(c) Any honorably retired peace officer listed in subdivision (c) of Section 830.5.

(d) Any other honorably retired peace officer who during the course and scope of employment as a peace officer was authorized to, and did, carry a firearm.

1 (e) Any full-time paid peace officer of another state or the federal government
2 who is carrying out official duties while in California.

3 (f) Any person summoned by any of these officers to assist in making arrests or
4 preserving the peace while the person is actually engaged in assisting that officer.

5 **Comment.** Section 25450 continues the first sentence of former Section 12027(a)(1)(A)
6 without substantive change.

7 For an exemption relating to honorably retired federal officers and agents, see Section 25650.

8 For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925.
9 For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections
10 26300-26325.

11 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

12 **§ 25455. Identification certificate for honorably retired peace officer**

13 25455. (a) Any peace officer described in Section 25450 who has been
14 honorably retired shall be issued an identification certificate by the law
15 enforcement agency from which the officer retired.

16 (b) The issuing agency may charge a fee necessary to cover any reasonable
17 expenses incurred by the agency in issuing certificates pursuant to this article.

18 (c) Any officer, except an officer listed in Section 830.1 or 830.2, subdivision
19 (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to
20 January 1, 1981, shall have an endorsement on the identification certificate stating
21 that the issuing agency approves the officer’s carrying of a concealed firearm.

22 (d) An honorably retired peace officer listed in Section 830.1 or 830.2,
23 subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired
24 prior to January 1, 1981, shall not be required to obtain an endorsement from the
25 issuing agency to carry a concealed firearm.

26 **Comment.** Subdivision (a) of Section 25455 continues the second sentence of former Section
27 12027(a)(1)(A) without substantive change.

28 Subdivision (b) continues the third sentence of former Section 12027(a)(1)(A) without
29 substantive change.

30 Subdivision (c) continues former Section 12027(a)(1)(B) without substantive change.

31 Subdivision (d) continues the second sentence of former Section 12027(a)(2) without
32 substantive change.

33 For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925.
34 For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections
35 26300-26325.

36 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

37 **§ 25460. Format of endorsement on identification certificate**

38 25460. (a) Except as provided in subdivision (b), no endorsement or renewal
39 endorsement issued pursuant to Section 25465 shall be effective unless it is in the
40 format set forth in subdivision (c).

41 (b) Any peace officer listed in subdivision (f) of Section 830.2 or in subdivision
42 (c) of Section 830.5, who retired between January 2, 1981, and on or before
43 December 31, 1988, and who is authorized to carry a concealed firearm pursuant
44 to this article, shall not be required to have an endorsement in the format set forth

1 in subdivision (c) until the time of the issuance, on or after January 1, 1989, of a
2 renewal endorsement pursuant to Section 25465.

3 (c) A certificate issued pursuant to Section 25455 for any person who is not
4 listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision
5 (c) of Section 830.5, or for any person retiring after January 1, 1981, shall be in
6 the following format: it shall be on a 2x3 inch card, bear the photograph of the
7 retiree, include the retiree's name, date of birth, the date that the retiree retired,
8 and the name and address of the agency from which the retiree retired, and have
9 stamped on it the endorsement "CCW Approved" and the date the endorsement is
10 to be renewed. A certificate issued pursuant to Section 25455 shall not be valid as
11 identification for the sale, purchase, or transfer of a firearm.

12 **Comment.** Subdivisions (a) and (b) of Section 25460 continue former Section 12027(a)(1)(C)
13 without substantive change.

14 Subdivision (c) continues former Section 12027(a)(1)(D) without substantive change.

15 See Sections 16360 ("CCW"), 16520 ("firearm").

16 **§ 25465. Renewal of privilege to carry concealed firearm**

17 25465. Every five years, a retired peace officer, except an officer listed in
18 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of
19 Section 830.5 who retired prior to January 1, 1981, shall petition the issuing
20 agency for renewal of the officer's privilege to carry a concealed firearm.

21 **Comment.** Section 25465 continues the first sentence of former Section 12027(a)(2) without
22 substantive change.

23 See Section 16520 ("firearm").

24 **§ 25470. Denial or revocation of privilege to carry concealed firearm**

25 25470. (a) The agency from which a peace officer is honorably retired may,
26 upon initial retirement of that peace officer, or at any time subsequent thereto,
27 deny or revoke for good cause the retired officer's privilege to carry a concealed
28 firearm.

29 (b) A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of
30 Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1,
31 1981, shall have the privilege to carry a concealed firearm denied or revoked by
32 having the agency from which the officer retired stamp on the officer's
33 identification certificate "No CCW privilege."

34 **Comment.** Subdivision (a) of Section 25470 continues the third sentence of former Section
35 12027(a)(2) without substantive change.

36 Subdivision (b) continues the fourth sentence of former Section 12027(a)(2) without
37 substantive change.

38 See Sections 16360 ("CCW"), 16520 ("firearm"), 16690 ("honorably retired").

39 **§ 25475. Maintaining privilege to carry concealed firearm**

40 25475. (a) An honorably retired peace officer who is listed in subdivision (c) of
41 Section 830.5 and authorized to carry a concealed firearm by this article shall meet

1 the training requirements of Section 832 and shall qualify with the firearm at least
2 annually.

3 (b) The individual retired peace officer shall be responsible for maintaining
4 eligibility to carry a concealed firearm.

5 (c) The Department of Justice shall provide subsequent arrest notification
6 pursuant to Section 11105.2 regarding honorably retired peace officers listed in
7 subdivision (c) of Section 830.5 to the agency from which the officer has retired.

8 **Comment.** Section 25475 continues former Section 12027(a)(3) without substantive change.
9 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

10 Article 3. Conditional Exemptions

11 § 25500. Effect of article

12 25500. This article does not prohibit or limit the otherwise lawful carrying or
13 transportation of any pistol, revolver, or other firearm capable of being concealed
14 upon the person in accordance with the provisions listed in Section 16580.

15 **Comment.** Section 25500 continues former Section 12026.2(c) without substantive change.
16 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
17 “revolver”).

18 § 25505. Conditions for exemption to apply

19 25505. In order for a firearm to be exempted under this article, while being
20 transported to or from a place, the firearm shall be unloaded and kept in a locked
21 container, and the course of travel shall include only those deviations between
22 authorized locations as are reasonably necessary under the circumstances.

23 **Comment.** Section 25505 continues former Section 12026.2(b) without substantive change.
24 For another provision on transporting a firearm in a locked container, see Section 25610
25 (carrying firearm in locked container).
26 See Sections 16520 (“firearm”), 16850 (“locked container”).

27 § 25510. Motion picture, television, video production, or entertainment event

28 25510. Section 25400 does not apply to, or affect, any of the following:

29 (a) The possession of a firearm by an authorized participant in a motion picture,
30 television, or video production, or an entertainment event, when the participant
31 lawfully uses the firearm as part of that production or event, or while going
32 directly to, or coming directly from, that production or event.

33 (b) The transportation of a firearm by an authorized employee or agent of a
34 supplier of firearms when going directly to, or coming directly from, a motion
35 picture, television, or video production, or an entertainment event, for the purpose
36 of providing that firearm to an authorized participant to lawfully use as a part of
37 that production or event.

38 **Comment.** Subdivision (a) of Section 25510 continues former Section 12026.2(a)(1) without
39 substantive change.

40 Subdivision (b) continues former Section 12026.2(a)(8) without substantive change.

41 For conditions on invoking these exemptions, see Section 25505.

1 See Section 16520 (“firearm”).

2 **§ 25515. Club or organization for lawfully collecting and displaying firearms**

3 25515. Section 25400 does not apply to, or affect, the possession of a firearm in
4 a locked container by a member of any club or organization, organized for the
5 purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other
6 firearms, while the member is at a meeting of the club or organization or while
7 going directly to, and coming directly from, a meeting of the club or organization.

8 **Comment.** Section 25515 continues former Section 12026.2(a)(2) without substantive change.

9 For conditions on invoking this exemption, see Section 25505. For an exemption relating to
10 transportation of a curio or relic brought into the state by licensed collector, see Section 25580.

11 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
12 “pistol,” and “revolver”), 16850 (“locked container”).

13 **§ 25520. Recognized sporting event or safety or hunter safety class**

14 25520. Section 25400 does not apply to, or affect, the transportation of a firearm
15 by a participant when going directly to, or coming directly from, a recognized
16 safety or hunter safety class, or a recognized sporting event involving that firearm.

17 **Comment.** Section 25520 continues former Section 12026.2(a)(3) without substantive change.

18 For conditions on invoking this exemption, see Section 25505. For another exemption relating
19 to hunting, see Section 25640 (licensed hunters or fishermen).

20 See Section 16520 (“firearm”).

21 **§ 25525. Transportation of firearm by owner or person in lawful possession to place of**
22 **residence, place of business, or other private property of that person**

23 25525. (a) Section 25400 does not apply to, or affect, the transportation of a
24 firearm by any citizen of the United States or legal resident over the age of 18
25 years who resides or is temporarily within this state, and who is not within the
26 excepted classes prescribed by [Section 12021 or 12021.1 of this code] or Section
27 8100 or 8103 of the Welfare and Institutions Code, directly between any of the
28 following places:

29 (1) The person’s place of residence.

30 (2) The person’s place of business.

31 (3) Private property owned or lawfully possessed by the person.

32 (b) Section 25400 does not apply to, or affect, the transportation of a firearm by
33 a person listed in subdivision (a) when going directly from the place where that
34 person lawfully received that firearm to that person’s place of residence or place
35 of business or to private property owned or lawfully possessed by that person.

36 **Comment.** Subdivision (a) of Section 25525 continues former Section 12026.2(a)(4) without
37 substantive change.

38 Subdivision (b) continues former Section 12026.2(a)(6) without substantive change.

39 For conditions on invoking these exemptions, see Section 25505. For an exemption relating to
40 carrying or possession of a firearm at one’s place of residence, place of business, or other private
41 property, see Section 25605.

42 See Section 16520 (“firearm”).

1 **§ 25530. Repair, transfer, sale, or loan of firearm**

2 25530. Section 25400 does not apply to, or affect, the transportation of a firearm
3 by a person when going directly to, or coming directly from, a fixed place of
4 business or private residential property for the purpose of the lawful repair or the
5 lawful transfer, sale, or loan of that firearm.

6 **Comment.** Section 25530 continues former Section 12026.2(a)(5) without substantive change.
7 For conditions on invoking this exemption, see Section 25505.
8 See Section 16520 (“firearm”).

9 **§ 25535. Gun show, swap meet, or similar event**

10 25535. Section 25400 does not apply to, or affect, any of the following:

11 (a) The transportation of a firearm by a person when going directly to, or
12 coming directly from, a gun show, swap meet, or similar event to which the public
13 is invited, for the purpose of displaying that firearm in a lawful manner.

14 (b) The transportation of a firearm by a person when going directly to, or
15 coming directly from, a gun show or event, as defined in Section 478.100 of Title
16 27 of the Code of Federal Regulations, for the purpose of lawfully transferring,
17 selling, or loaning that firearm in accordance with Section 27545.

18 **Comment.** Subdivision (a) of Section 25535 continues former Section 12026.2(a)(7) without
19 substantive change.

20 Subdivision (b) continues former Section 12026.2(a)(14) without substantive change.

21 For conditions on invoking these exemptions, see Section 25505.

22 See Section 16520 (“firearm”).

23 **§ 25540. Target range**

24 25540. Section 25400 does not apply to, or affect, the transportation of a firearm
25 by a person when going directly to, or coming directly from, a target range, which
26 holds a regulatory or business license, for the purposes of practicing shooting at
27 targets with that firearm at that target range.

28 **Comment.** Section 25540 continues former Section 12026.2(a)(9) without substantive change.

29 For conditions on invoking this exemption, see Section 25505. For another exemption relating
30 to practicing at a target range, see Section 25635 (member of club or organization for purpose of
31 practicing at established target ranges).

32 See Section 16520 (“firearm”).

33 **§ 25545. Transportation to place designated by person authorized to issue license to carry**
34 **firearm**

35 25545. Section 25400 does not apply to, or affect, the transportation of a firearm
36 by a person when going directly to, or coming directly from, a place designated by
37 a person authorized to issue licenses pursuant to Section 26150, 26155, or 26170,
38 when done at the request of the issuing agency so that the issuing agency can
39 determine whether or not a license should be issued to that person to carry that
40 firearm.

41 **Comment.** Section 25545 continues former Section 12026.2(a)(10) without substantive
42 change.

1 For conditions on invoking this exemption, see Section 25505. For an exemption relating to a
2 person with a license to carry a concealed pistol, revolver, or other firearm capable of being
3 concealed upon the person, see Section 25655.

4 See Section 16520 (“firearm”).

5 **§ 25550. Camping**

6 25550. (a) Section 25400 does not apply to, or affect, the transportation of a
7 firearm by a person when going directly to, or coming directly from, a lawful
8 camping activity for the purpose of having that firearm available for lawful
9 personal protection while at the lawful campsite.

10 (b) This section shall not be construed to override the statutory authority granted
11 to the Department of Parks and Recreation or any other state or local
12 governmental agencies to promulgate rules and regulations governing the
13 administration of parks and campgrounds.

14 **Comment.** Section 25550 continues former Section 12026.2(a)(11) without substantive
15 change.

16 For conditions on invoking this exemption, see Section 25505.

17 See Section 16520 (“firearm”).

18 **§ 25555. Person taking title or possession of firearm by operation of law, or person receiving**
19 **firearm by gift, bequest, intestate succession, or other means from immediate family**
20 **member**

21 25555. Section 25400 does not apply to, or affect, the transportation of a firearm
22 by a person in order to comply with Section 27870, 27875, 27915, 27920, or
23 27925, as it pertains to that firearm.

24 **Comment.** Section 25555 continues former Section 12026.2(a)(12) without substantive
25 change.

26 For conditions on invoking this exemption, see Section 25505.

27 See Section 16520 (“firearm”).

28 **§ 25560. Transportation of firearm to utilize Section 28000**

29 25560. Section 25400 does not apply to, or affect, the transportation of a firearm
30 by a person in order to utilize Section 28000 as it pertains to that firearm.

31 **Comment.** Section 25560 continues former Section 12026.2(a)(13) without substantive
32 change.

33 For conditions on invoking this exemption, see Section 25505.

34 See Section 16520 (“firearm”).

35 **§ 25565. Sale, delivery, or transfer of firearm to governmental entity as part of program**
36 **where entity is buying or receiving weapons from private individuals**

37 25565. Section 25400 does not apply to, or affect, the transportation of a firearm
38 by a person in order to sell, deliver, or transfer the firearm as specified in [Section
39 12078(a)(6)] to an authorized representative of a city, city and county, county, or
40 state or federal government that is acquiring the weapon as part of an authorized,
41 voluntary program in which the entity is buying or receiving weapons from private
42 individuals.

1 **Comment.** Section 25565 continues former Section 12026.2(a)(15) without substantive
2 change.

3 For conditions on invoking this exemption, see Section 25505.

4 See Section 16520 (“firearm”).

5 **§ 25570. Transportation of firearm by finder to law enforcement agency**

6 25570. Section 25400 does not apply to, or affect, any of the following:

7 (a) The transportation of a firearm by a person who finds the firearm, if the
8 person is transporting the firearm in order to comply with Article 1 (commencing
9 with Section 2080) of Chapter 4 of Division 3 of the Civil Code as it pertains to
10 that firearm, and, if the person is transporting the firearm to a law enforcement
11 agency, the person gives prior notice to the law enforcement agency that the
12 person is transporting the firearm to the law enforcement agency.

13 (b) The transportation of a firearm by a person who finds the firearm and is
14 transporting it to a law enforcement agency for disposition according to law, if the
15 person gives prior notice to the law enforcement agency that the person is
16 transporting the firearm to the law enforcement agency for disposition according
17 to law.

18 **Comment.** Subdivision (a) of Section 25570 continues former Section 12026.2(a)(16) without
19 substantive change.

20 Subdivision (b) continues former Section 12026.2(a)(18) without substantive change.

21 For conditions on invoking these exemptions, see Section 25505.

22 See Section 16520 (“firearm”).

23 **§ 25575. Compliance with restrictions relating to importation of handgun by personal**
24 **handgun importer**

25 25575. Section 25400 does not apply to, or affect, the transportation of a firearm
26 by a person in order to comply with Section 27560 as it pertains to that firearm.

27 **Comment.** Section 25575 continues former Section 12026.2(a)(17) without substantive
28 change.

29 For conditions on invoking this exemption, see Section 25505. For an exemption relating to
30 transportation of unloaded handguns by a licensed manufacturer, importer, wholesaler, repairer,
31 or dealer, see Section 25615.

32 See Section 16520 (“firearm”).

33 **§ 25580. Transportation of curio or relic brought into state by licensed collector**

34 25580. Section 25400 does not apply to, or affect, the transportation of a firearm
35 that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of
36 Federal Regulations, by a person in order to comply with Section 27565 as it
37 pertains to that firearm.

38 **Comment.** Section 25580 continues former Section 12026.2(a)(19) without substantive
39 change.

40 For conditions on invoking this exemption, see Section 25505. For an exemption relating to a
41 club or organization for lawfully collecting and displaying firearms, see Section 25515.

42 See Section 16520 (“firearm”).

1 **§ 25585. Transportation of firearm to obtain identification number or mark**

2 25585. Section 25400 does not apply to, or affect, the transportation of a firearm
3 by a person for the purpose of obtaining an identification number or mark assigned
4 to that firearm from the Department of Justice pursuant to Section 23910.

5 **Comment.** Section 25585 continues former Section 12026.2(a)(20) without substantive
6 change.

7 For conditions on invoking this exemption, see Section 25505.

8 See Section 16520 (“firearm”).

9 Article 4. Other Exemptions

10 **§ 25600. Carrying concealed firearm when in reasonable belief of grave danger to self**

25600. (a) A violation of Section 25400 is justifiable when a person who possesses a firearm reasonably believes that person is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person who has been found to pose a threat to the life or safety of the person who possesses the firearm. This section may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to a defendant charged with violating Section 25400 or committing another similar offense.

(b) Upon trial for violating Section 25400, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that the defendant was in grave danger.

25 **Comment.** Section 25600 continues former Section 12025.5 without substantive change.

26 See Section 16520 (“firearm”).

27 **§ 25605. Carrying or possession of firearm at one's place of residence, place of business, or**
28 **other private property**

29 25605. (a) Section 25400 shall not apply to or affect any citizen of the United
30 States or legal resident over the age of 18 years who resides or is temporarily
31 within this state, and who is not within the excepted classes prescribed by [Section
32 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare and
33 Institutions Code, who carries, either openly or concealed, anywhere within the
34 citizen's or legal resident's place of residence, place of business, or on private
35 property owned or lawfully possessed by the citizen or legal resident, any pistol,
36 revolver, or other firearm capable of being concealed upon the person.

(b) No permit or license to purchase, own, possess, keep, or carry, either openly or concealed, shall be required of any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare and Institutions Code, to purchase,

own, possess, keep, or carry, either openly or concealed, a pistol, revolver, or other firearm capable of being concealed upon the person within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident.

(c) Nothing in this section shall be construed as affecting the application of Sections 25850 to 26055, inclusive.

Comment. Section 25605 continues former Section 12026 without substantive change.

For an exemption relating to transportation of a firearm by the owner or a person in lawful possession of the firearm to that person's place of residence, place of business, or other private property, see Section 25525.

See Section 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver").

§ 25610. Carrying firearm in locked container

25610. (a) Section 25400 shall not be construed to prohibit any citizen of the United States over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare and Institutions Code, from transporting or carrying any pistol, revolver, or other firearm capable of being concealed upon the person, provided that the following applies to the firearm:

(1) The firearm is within a motor vehicle and it is locked in the vehicle's trunk or in a locked container in the vehicle.

(2) The firearm is carried by the person directly to or from any motor vehicle for any lawful purpose and, while carrying the firearm, the firearm is contained within a locked container.

(b) The provisions of this section do not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with the provisions listed in Section 16580.

Comment. Subdivision (a) of Section 25610 continues former Section 12026.1(a) without substantive change, except for the last phrase of paragraph (a)(1) ("other than the utility or glove compartment"). That phrase and former Section 12026.1(c) are continued in Section 16850 ("locked container").

Subdivision (b) continues former Section 12026.1(b) without substantive change.

For another provision on transporting a firearm in a locked container, see Section 25505 (conditions for Article 3 exemptions to apply).

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 16850 ("locked container").

§ 25615. Transportation of unloaded handguns by licensed manufacturer, importer, wholesaler, repairer, or dealer

25615. Section 25400 does not apply to, or affect, the possession or transportation of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person as merchandise by a person who is engaged in the business of manufacturing, importing, wholesaling, repairing, or dealing in

1 firearms and who is licensed to engage in that business, or the authorized
2 representative or authorized agent of that person, while engaged in the lawful
3 course of the business.

4 **Comment.** Section 25615 continues former Section 12027(b) without substantive change.

5 For an exemption relating to compliance with restrictions on importation of handguns by a
6 personal handgun importer, see Section 25575.

7 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
8 “revolver”).

9 **§ 25620. Member of military on duty or organization authorized by law to purchase or**
10 **receive weapons**

11 25620. Section 25400 does not apply to, or affect, any member of the Army,
12 Navy, Air Force, Coast Guard, or Marine Corps of the United States, or the
13 National Guard, when on duty, or any organization that is by law authorized to
14 purchase or receive those weapons from the United States or this state.

15 **Comment.** Section 25620 continues former Section 12027(c) without substantive change.

16 For an exemption relating to parading by a duly authorized military or civil organization, or
17 traveling to a meeting of such an organization, see Section 25625.

18 **§ 25625. Parading by, or traveling to meeting of, duly authorized military or civil**
19 **organization**

20 25625. Section 25400 does not apply to, or affect, the carrying of unloaded
21 pistols, revolvers, or other firearms capable of being concealed upon the person by
22 duly authorized military or civil organizations while parading, or the members
23 thereof when going to and from the places of meeting of their respective
24 organizations.

25 **Comment.** Section 25625 continues former Section 12027(d) without substantive change.

26 For an exemption relating to a member of the military on duty or an organization authorized by
27 law to purchase or receive weapons, see Section 25620.

28 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
29 “revolver”).

30 **§ 25630. Guard or messenger of common carrier, bank, or financial institution, when**
31 **involved in shipping, transporting, or delivering money or other thing of value**

32 25630. Section 25400 does not apply to, or affect, any guard or messenger of
33 any common carrier, bank, or other financial institution, while actually employed
34 in and about the shipment, transportation, or delivery of any money, treasure,
35 bullion, bonds, or other thing of value within this state.

36 **Comment.** Section 25630 continues former Section 12027(e) without substantive change.

37 For another exemption relating to common carriers, see Section 25645 (transportation of
38 unloaded firearms by person operating licensed common carrier).

39 **§ 25635. Member of club or organization for purpose of practicing at established target**
40 **ranges**

41 25635. Section 25400 does not apply to, or affect, members of any club or
42 organization organized for the purpose of practicing shooting at targets upon

1 established target ranges, whether public or private, while the members are using
2 pistols, revolvers, or other firearms capable of being concealed upon the person
3 upon the target ranges, or transporting these firearms unloaded when going to and
4 from the ranges.

5 **Comment.** Section 25635 continues former Section 12027(f) without substantive change.

6 For another exemption relating to practicing at a target range, see Section 25540 (target range).

7 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
8 “revolver”).

9 **§ 25640. Licensed hunters or fishermen**

10 25640. Section 25400 does not apply to, or affect, licensed hunters or fishermen
11 carrying pistols, revolvers, or other firearms capable of being concealed upon the
12 person while engaged in hunting or fishing, or transporting those firearms
13 unloaded when going to or returning from the hunting or fishing expedition.

14 **Comment.** Section 25640 continues former Section 12027(g) without substantive change.

15 For another exemption relating to hunting, see Section 25520 (recognized sporting event or
16 safety or hunter safety class).

17 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
18 “revolver”).

19 **§ 25645. Transportation of unloaded firearms by person operating licensed common carrier**

20 25645. Section 25400 does not apply to, or affect, the transportation of unloaded
21 firearms by a person operating a licensed common carrier or an authorized agent
22 or employee thereof when the firearms are transported in conformance with
23 applicable federal law.

24 **Comment.** Section 25645 continues former Section 12027(h) without substantive change.

25 For another exemption relating to common carriers, see Section 25630 (guard or messenger of
26 common carrier, bank, or financial institution, when involved in shipping, transporting, or
27 delivering money or other thing of value).

28 See Section 16520 (“firearm”).

29 **§ 25650. Honorably retired federal officer or agent**

30 25650. (a) Upon approval of the sheriff of the county in which the retiree
31 resides, Section 25400 does not apply to, or affect, any honorably retired federal
32 officer or agent of any federal law enforcement agency, including, but not limited
33 to, the Federal Bureau of Investigation, the Secret Service, the United States
34 Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the
35 Federal Bureau of Narcotics, the Drug Enforcement Administration, the United
36 States Border Patrol, and any officer or agent of the Internal Revenue Service who
37 was authorized to carry weapons while on duty, who was assigned to duty within
38 the state for a period of not less than one year, or who retired from active service
39 in the state.

40 (b) A retired federal officer or agent shall provide the sheriff with certification
41 from the agency from which the officer or agent retired certifying that person’s
42 service in the state, the nature of that person’s retirement, and indicating the

1 agency's concurrence that the retired federal officer or agent should be accorded
2 the privilege of carrying a concealed firearm.

3 (c) Upon that approval, the sheriff shall issue a permit to the retired federal
4 officer or agent indicating that the retiree may carry a concealed firearm in
5 accordance with this section. The permit shall be valid for a period not exceeding
6 five years, shall be carried by the retiree while carrying a concealed firearm, and
7 may be revoked for good cause.

8 (d) The sheriff of the county in which the retired federal officer or agent resides
9 may require recertification prior to a permit renewal, and may suspend the
10 privilege for cause. The sheriff may charge a fee necessary to cover any
11 reasonable expenses incurred by the county.

12 **Comment.** Section 25650 continues former Section 12027(i) without substantive change.

13 For an exemption relating to honorably retired peace officers, see Section 25450 (peace officer
14 exemption).

15 For an honorably retired federal officer or agent carrying a loaded firearm, see Section 26020.

16 See Section 16520 ("firearm").

17 **§ 25655. Person licensed to carry concealed pistol, revolver, or other firearm capable of**
18 **being concealed upon the person**

19 25655. Section 25400 does not apply to, or affect, the carrying of a pistol,
20 revolver, or other firearm capable of being concealed upon the person by a person
21 who is authorized to carry that weapon in a concealed manner pursuant to Chapter
22 4 (commencing with Section 26150).

23 **Comment.** Section 25655 continues former Section 12027(j) without substantive change.

24 For an exemption relating to transportation of a firearm to a place designated by a person who
25 is authorized to issue licenses to carry firearms, see Section 25545.

26 See Section 16530 ("firearm capable of being concealed upon the person," "pistol," and
27 "revolver").

28 **Article 5. Concealed Carrying of Firearm as a Nuisance**

29 **§ 25700. Unlawful carrying of handgun as nuisance**

30 25700. (a) The unlawful carrying of any handgun in violation of Section 25400
31 is a nuisance and is subject to Sections 18000 and 18005.

32 (b) This section does not apply to any of the following:

33 (1) Any firearm in the possession of the Department of Fish and Game.

34 (2) Any firearm that was used in the violation of any provision of the Fish and
35 Game Code or any regulation adopted pursuant thereto.

36 (3) Any firearm that is forfeited pursuant to Section 5008.6 of the Public
37 Resources Code.

38 **Comment.** With respect to unlawful carrying of a handgun, subdivision (a) of Section 25700
39 continues former Section 12028(a) without substantive change.

40 With respect to unlawful carrying of a handgun, subdivision (b) continues former Section
41 12028(e) without substantive change.

42 See Sections 16520 ("firearm"), 16640 ("handgun").

CHAPTER 3. CARRYING A LOADED FIREARM

Article 1. Armed Criminal Action

§ 25800. Armed criminal action

25800. (a) Every person who carries a loaded firearm with the intent to commit a felony is guilty of armed criminal action.

(b) Armed criminal action is punishable by imprisonment in a county jail not exceeding one year, or in the state prison.

Comment. Section 25800 continues former Section 12023 without substantive change.

The definition of “loaded” for armed criminal action differs from the definition of “loaded” for the crime of carrying a loaded firearm in public. See Section 16840 (“loaded” and “loaded firearm”).

See also Section 16520 (“firearm”).

Article 2. Crime of Carrying a Loaded Firearm in Public

§ 25850. Crime of carrying loaded firearm in public

25850. (a) A person is guilty of carrying a loaded firearm when the person carries a loaded firearm on the person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.

(b) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on the person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

(c) Carrying a loaded firearm in violation of this section is punishable, as follows:

(1) Where the person previously has been convicted of any felony, or of any crime made punishable by a provision listed in Section 16580, as a felony.

(2) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.

(3) Where the person is an active participant in a criminal street gang, as defined in subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

(4) Where the person is not in lawful possession of the firearm, or is within a class of persons prohibited from possessing or acquiring a firearm pursuant to [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

1 (5) Where the person has been convicted of a crime against a person or property,
2 or of a narcotics or dangerous drug violation, by imprisonment in the state prison,
3 or by imprisonment in a county jail not to exceed one year, by a fine not to exceed
4 one thousand dollars (\$1,000), or by both that imprisonment and fine.

5 (6) Where the person is not listed with the Department of Justice pursuant to
6 Section 11106 as the registered owner of the pistol, revolver, or other firearm
7 capable of being concealed upon the person, by imprisonment in the state prison,
8 or by imprisonment in a county jail not to exceed one year, or by a fine not to
9 exceed one thousand dollars (\$1,000), or both that fine and imprisonment.

10 (7) In all cases other than those specified in paragraphs (1) to (6), inclusive, as a
11 misdemeanor, punishable by imprisonment in a county jail not to exceed one year,
12 by a fine not to exceed one thousand dollars (\$1,000), or by both that
13 imprisonment and fine.

14 (d)(1) Every person convicted under this section who has previously been
15 convicted of an offense enumerated in Section 23515, or of any crime made
16 punishable under a provision listed in Section 16580, shall serve a term of at least
17 three months in a county jail, or, if granted probation or if the execution or
18 imposition of sentence is suspended, it shall be a condition thereof that the person
19 be imprisoned for a period of at least three months.

20 (2) The court shall apply the three-month minimum sentence except in unusual
21 cases where the interests of justice would best be served by granting probation or
22 suspending the imposition or execution of sentence without the minimum
23 imprisonment required in this section or by granting probation or suspending the
24 imposition or execution of sentence with conditions other than those set forth in
25 this section, in which case, the court shall specify on the record and shall enter on
26 the minutes the circumstances indicating that the interests of justice would best be
27 served by that disposition.

28 (e) A violation of this section that is punished by imprisonment in a county jail
29 not exceeding one year shall not constitute a conviction of a crime punishable by
30 imprisonment for a term exceeding one year for the purposes of determining
31 federal firearms eligibility under Section 922(g)(1) of Title 18 of the United States
32 Code.

33 (f) Nothing in this section, or in Articles 3 (commencing with Section 25900) or
34 4 (commencing with Section 26000), shall preclude prosecution under [Sections
35 12021 and 12021.1 of this code], Section 8100 or 8103 of the Welfare and
36 Institutions Code, or any other law with a greater penalty than this section.

37 (g) Notwithstanding paragraphs (2) and (3) of subdivision (a) of Section 836, a
38 peace officer may make an arrest without a warrant:

39 (1) When the person arrested has violated this section, although not in the
40 officer's presence.

41 (2) Whenever the officer has reasonable cause to believe that the person to be
42 arrested has violated this section, whether or not this section has, in fact, been
43 violated.

(h) A peace officer may arrest a person for a violation of paragraph (6) of subdivision (c), if the peace officer has probable cause to believe that the person is carrying a loaded pistol, revolver, or other firearm capable of being concealed upon the person in violation of this section and that person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of that pistol, revolver, or other firearm capable of being concealed upon the person.

Comment. Subdivision (a) of Section 25850 continues former Section 12031(a)(1) without substantive change.

Subdivision (b) continues former Section 12031(e) without substantive change.

Subdivision (c) continues former Section 12031(a)(2) without substantive change. Subdivision (d) continues former Section 12031(a)(6) without substantive change. For guidance in applying paragraphs (c)(1) and (d)(1), see Section 16015 (determining existing of prior conviction).

Subdivision (e) continues former Section 12031(a)(7) without substantive change.

Subdivision (f) continues former Section 12031(a)(4) without substantive change.

Subdivision (g) continues former Section 12031(a)(5)(A) without substantive change.

Subdivision (h) continues former Section 12031(a)(5)(B) without substantive change.

For a provision that required preparation of reports on the race, age, gender, and ethnicity of persons charged with violating the predecessor of this section, see former Section 12031(m) (1999 Cal. Stat. ch. 571, § 3). That provision is not continued, because by its terms it ceased to be operative on January 1, 2005.

The definition of “loaded” for the crime of carrying a loaded firearm in public differs from the definition of “loaded” for armed criminal action. See Section 16840 (“loaded” and “loaded firearm”).

See also Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16750 (“lawful possession of the firearm”), 17030 (“prohibited area”).

Article 3. Peace Office Exemption to the Crime of Carrying a Loaded Firearm in Public

§ 25900. Peace officer exemption

25900. As provided in this article, Section 25850 does not apply to any of the following:

(a) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired.

(b) Any other duly appointed peace officer.

(c) Any honorably retired peace officer listed in subdivision (c) of Section 830.5.

(d) Any other honorably retired peace officer who during the course and scope of employment as a peace officer was authorized to, and did, carry a firearm.

(e) Any full-time paid peace officer of another state or the federal government who is carrying out official duties while in California.

(f) Any person summoned by any of these officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer.

Comment. Section 25900 continues the first sentence of the first paragraph of former Section 12031(b)(1) without substantive change.

1 For an exemption relating to honorably retired federal officers and agents, see Section 16020.
2 For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-
3 25475. For guidance on a retired peace officer carrying a concealed and loaded firearm, see
4 Sections 26300-26325.

5 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

6 **§ 25905. Identification certificate for honorably retired peace officer**

7 25905. (a) Any peace officer described in Section 25900 who has been
8 honorably retired shall be issued an identification certificate by the law
9 enforcement agency from which the officer has retired.

10 (b) The issuing agency may charge a fee necessary to cover any reasonable
11 expenses incurred by the agency in issuing certificates pursuant to this article.

12 (c) Any officer, except an officer listed in Section 830.1 or 830.2, subdivision
13 (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to
14 January 1, 1981, shall have an endorsement on the identification certificate stating
15 that the issuing agency approves the officer’s carrying of a loaded firearm.

16 (d) An honorably retired peace officer listed in Section 830.1 or 830.2,
17 subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired
18 prior to January 1, 1981, shall not be required to obtain an endorsement from the
19 issuing agency to carry a loaded firearm.

20 **Comment.** Subdivision (a) of Section 25905 continues the second sentence of the first
21 paragraph of former Section 12031(b)(1) without substantive change.

22 Subdivision (b) continues the third sentence of the first paragraph of former Section
23 12031(b)(1) without substantive change.

24 Subdivision (c) continues the second paragraph of former Section 12031(b)(1) without
25 substantive change.

26 Subdivision (d) continues the second sentence of former Section 12031(b)(2) without
27 substantive change.

28 For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-
29 25475. For guidance on a retired peace officer carrying a concealed and loaded firearm, see
30 Sections 26300-26325.

31 See Sections 16520 (“firearm”), 16690 (“honorably retired”), 16840 (“loaded” and “loaded
32 firearm”).

33 **§ 25910. Format of endorsement on identification certificate**

34 25910. (a) Except as provided in subdivision (b), no endorsement or renewal
35 endorsement issued pursuant to Section 25915 shall be effective unless it is in the
36 format set forth in subdivision (c) of Section 25460.

37 (b) Any peace officer listed in subdivision (f) of Section 830.2 or in subdivision
38 (c) of Section 830.5, who is retired between January 2, 1981, and on or before
39 December 31, 1988, and who is authorized to carry a loaded firearm pursuant to
40 this article, shall not be required to have an endorsement in the format set forth in
41 subdivision (c) of Section 25460 until the time of the issuance, on or after January
42 1, 1989, of a renewal endorsement pursuant to 25915.

43 **Comment.** Section 25910 continues the third paragraph of former Section 12031(b)(1) without
44 substantive change.

45 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

1 **§ 25915. Renewal of privilege to carry loaded firearm**

2 25915. Every five years, a retired peace officer, except an officer listed in
3 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of
4 Section 830.5 who retired prior to January 1, 1981, shall petition the issuing
5 agency for renewal of the privilege to carry a loaded firearm.

6 **Comment.** Section 25915 continues the first sentence of former Section 12031(b)(2) without
7 substantive change.

8 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

9 **§ 25920. Denial or revocation of privilege to carry loaded firearm**

10 25920. (a) The agency from which a peace officer is honorably retired may,
11 upon initial retirement of the peace officer, or at any time subsequent thereto, deny
12 or revoke for good cause the retired officer’s privilege to carry a loaded firearm.

13 (b) A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of
14 Section 830.33, or subdivision (c) of Section 830.5 who is retired prior to January
15 1, 1981, shall have the privilege to carry a loaded firearm denied or revoked by
16 having the agency from which the officer retired stamp on the officer’s
17 identification certificate “No CCW privilege.”

18 **Comment.** Subdivision (a) of Section 25920 continues the third sentence of former Section
19 12031(b)(2) without substantive change.

20 Subdivision (b) continues the fourth sentence of former Section 12031(b)(2) without
21 substantive change.

22 See Sections 16360 (“CCW”), 16520 (“firearm”), 16690 (“honorably retired”), 16840
23 (“loaded” and “loaded firearm”).

24 **§ 25925. Maintaining privilege to carry loaded firearm**

25 25925. (a) An honorably retired peace officer who is listed in subdivision (c) of
26 Section 830.5 and authorized to carry a loaded firearm by this article shall meet
27 the training requirements of Section 832 and shall qualify with the firearm at least
28 annually.

29 (b) The individual retired peace officer shall be responsible for eligibility to
30 carry a loaded firearm.

31 (c) The Department of Justice shall provide subsequent arrest notification
32 pursuant to Section 11105.2 regarding honorably retired peace officers listed in
33 subdivision (c) of Section 830.5 to the agency from which the officer has retired.

34 **Comment.** Section 25925 continues former Section 12031(b)(3) without substantive change.

35 See Sections 16520 (“firearm”), 16690 (“honorably retired”), 16840 (“loaded” and “loaded
36 firearm”).

37 Article 4. Other Exemptions to the Crime of
38 Carrying a Loaded Firearm in Public

39 **§ 26000. Members of military on duty**

40 26000. Section 25850 does not apply to members of the military forces of this
41 state or of the United States engaged in the performance of their duties.

1 **Comment.** Section 26000 continues former Section 12031(b)(4) without substantive change.

2 **§ 26005. Target range or shooting club**

3 26005. Section 25850 does not apply to either of the following:

4 (a) Persons who are using target ranges for the purpose of practice shooting with
5 a firearm.

6 (b) Members of shooting clubs while hunting on the premises of those clubs.

7 **Comment.** Section 26005 continues former Section 12031(b)(5) without substantive change.

8 See Section 16520 (“firearm”).

9 **§ 26010. Person licensed to carry concealed pistol, revolver, or other firearm capable of
10 being concealed upon the person**

11 26010. Section 25850 does not apply to the carrying of any pistol, revolver, or
12 other firearm capable of being concealed upon the person by any person who is
13 authorized to carry that weapon pursuant to Chapter 4 (commencing with Section
14 26150) of Division 5.

15 **Comment.** Section 26010 continues former Section 12031(b)(6) without substantive change.

16 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
17 “revolver.”)

18 **§ 26015. Armored vehicle guard**

19 26015. Section 25850 does not apply to any armored vehicle guard, as defined
20 in Section 7521 of the Business and Professions Code, if either of the following
21 conditions is satisfied:

22 (a) The guard was hired prior to January 1, 1977, and is acting within the course
23 and scope of employment.

24 (b) The guard was hired on or after January 1, 1977, has received a firearms
25 qualification card from the Department of Consumer Affairs, and is acting within
26 the course and scope of employment.

27 **Comment.** Section 26015 continues former Section 12031(b)(7) without substantive change.

28 **§ 26020. Honorably retired federal officer or agent**

29 26020. (a) Upon approval of the sheriff of the county in which the retiree
30 resides, Section 25850 does not apply to any honorably retired federal officer or
31 agent of any federal law enforcement agency, including, but not limited to, the
32 Federal Bureau of Investigation, the Secret Service, the United States Customs
33 Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal
34 Bureau of Narcotics, the Drug Enforcement Administration, the United States
35 Border Patrol, and any officer or agent of the Internal Revenue Service who was
36 authorized to carry weapons while on duty, who was assigned to duty within the
37 state for a period of not less than one year, or who retired from active service in
38 the state.

39 (b) A retired federal officer or agent shall provide the sheriff with certification
40 from the agency from which the officer or agent retired certifying that person’s

1 service in the state, the nature of that person's retirement, and indicating the
2 agency's concurrence that the retired federal officer or agent should be accorded
3 the privilege of carrying a loaded firearm.

4 (c) Upon approval, the sheriff shall issue a permit to the retired federal officer or
5 agent indicating that the retiree may carry a loaded firearm in accordance with this
6 section. The permit shall be valid for a period not exceeding five years, shall be
7 carried by the retiree while carrying a loaded firearm, and may be revoked for
8 good cause.

9 (d) The sheriff of the county in which the retired federal officer or agent resides
10 may require recertification prior to a permit renewal, and may suspend the
11 privilege for cause. The sheriff may charge a fee necessary to cover any
12 reasonable expenses incurred by the county.

13 **Comment.** Section 26020 continues former Section 12031(b)(8) without substantive change.

14 For an exemption relating to honorably retired peace officers, see Section 25900 (peace officer
15 exemption).

16 For an honorably retired federal officer or agent carrying a concealed firearm, see Section
17 25650.

18 See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm").

19 **§ 26025. Patrol special police officers, animal control officers, zookeepers, humane officers,**
20 **and harbor police officers**

21 26025. Section 25850 does not apply to any of the following who have
22 completed a regular course in firearms training approved by the Commission on
23 Peace Officer Standards and Training:

24 (a) Patrol special police officers appointed by the police commission of any city,
25 county, or city and county under the express terms of its charter who also, under
26 the express terms of the charter, satisfy all of the following requirements:

27 (1) They are subject to suspension or dismissal after a hearing on charges duly
28 filed with the commission after a fair and impartial trial.

29 (2) They are not less than 18 years of age or more than 40 years of age.

30 (3) They possess physical qualifications prescribed by the commission.

31 (4) They are designated by the police commission as the owners of a certain beat
32 or territory as may be fixed from time to time by the police commission.

33 (b) Animal control officers or zookeepers, regularly compensated in that
34 capacity by a governmental agency, when carrying weapons while acting in the
35 course and scope of their employment and when designated by a local ordinance
36 or, if the governmental agency is not authorized to act by ordinance, by a
37 resolution, either individually or by class, to carry the weapons.

38 (c) Persons who are authorized to carry the weapons pursuant to Section 14502
39 of the Corporations Code, while actually engaged in the performance of their
40 duties pursuant to that section.

41 (c) Harbor police officers designated pursuant to Section 663.5 of the Harbors
42 and Navigation Code.

43 **Comment.** Section 26025 continues former Section 12031(c) without substantive change.

1 **§ 26030. Guards, messengers, private investigators, private patrol operators, and alarm**
2 **company operators**

3 26030. (a) Section 25850 does not apply to any of the following who have been
4 issued a certificate pursuant to subdivision (d):

5 (1) Guards or messengers of common carriers, banks, and other financial
6 institutions, while actually employed in and about the shipment, transportation, or
7 delivery of any money, treasure, bullion, bonds, or other thing of value within this
8 state.

9 (2) Guards of contract carriers operating armored vehicles pursuant to California
10 Highway Patrol and Public Utilities Commission authority, if they were hired prior
11 to January 1, 1977.

12 (3) Guards of contract carriers operating armored vehicles pursuant to California
13 Highway Patrol and Public Utilities Commission authority, if they were hired on
14 or after January 1, 1977, and they have completed a course in the carrying and use
15 of firearms that meets the standards prescribed by the Department of Consumer
16 Affairs.

17 (4) Private investigators licensed pursuant to Chapter 11.3 (commencing with
18 Section 7512) of Division 3 of the Business and Professions Code, while acting
19 within the course and scope of their employment.

20 (5) Uniformed employees of private investigators licensed pursuant to Chapter
21 11.3 (commencing with Section 7512) of Division 3 of the Business and
22 Professions Code, while acting within the course and scope of their employment.

23 (6) Private patrol operators licensed pursuant to Chapter 11.5 (commencing with
24 Section 7580) of Division 3 of the Business and Professions Code, while acting
25 within the course and scope of their employment.

26 (7) Uniformed employees of private patrol operators licensed pursuant to
27 Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and
28 Professions Code, while acting within the course and scope of their employment.

29 (8) Alarm company operators licensed pursuant to Chapter 11.6 (commencing
30 with Section 7590) of Division 3 of the Business and Professions Code, while
31 acting within the course and scope of their employment.

32 (9) Uniformed security guards or night watch persons employed by any public
33 agency, while acting within the scope and course of their employment.

34 (10) Uniformed security guards, regularly employed and compensated in that
35 capacity by persons engaged in any lawful business, and uniformed alarm agents
36 employed by an alarm company operator, while actually engaged in protecting and
37 preserving the property of their employers, or on duty or en route to or from their
38 residences or their places of employment, and security guards and alarm agents en
39 route to or from their residences or employer-required range training.

40 (b) Nothing in paragraph (10) of subdivision (a) shall be construed to prohibit
41 cities and counties from enacting ordinances requiring alarm agents to register
42 their names.

(c) A certificate under this section shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of the person's power as a peace officer, and who is employed while not on duty as a peace officer.

(d) The Department of Consumer Affairs may issue a certificate to any person referred to in this section, upon notification by the school where the course was completed, that the person has successfully completed a course in the carrying and use of firearms and a course of training in the exercise of the powers of arrest, which meet the standards prescribed by the department pursuant to Section 7583.5 of the Business and Professions Code.

Comment. The introductory clause of subdivision (a) of Section 26030 continues the first sentence of the introductory paragraph of former Section 12031(d) without substantive change.

Subdivision (a)(1) continues former Section 12031(d)(1) without substantive change.

Subdivision (a)(2)-(3) continues former Section 12031(d)(2) without substantive change.

With respect to licensed private investigators, subdivision (a)(4) continues former Section 12031(d)(3) without substantive change.

With respect to uniformed employees of licensed private investigators, subdivision (a)(5) continues former Section 12031(d)(6) without substantive change.

With respect to licensed private patrol operators, subdivision (a)(6) continues former Section 12031(d)(3) without substantive change.

With respect to uniformed employees of licensed private patrol operators, subdivision (a)(7) continues former Section 12031(d)(6) without substantive change.

With respect to licensed alarm company operators, subdivision (a)(8) continues former Section 12031(d)(3) without substantive change.

Subdivision (a)(9) continues former Section 12031(d)(4) without substantive change.

Subdivision (a)(10) continues the first sentence of former Section 12031(d)(5) without substantive change.

Subdivision (b) continues the second sentence of former Section 12031(d)(5) without substantive change.

Subdivision (c) continues the second sentence of the introductory paragraph of former Section 12031(d) without substantive change.

Subdivision (d) continues former Section 12033 without substantive change.

See Section 16520 ("firearm").

§ 26035. Loaded firearm at one's place of business or own private property

26035. Nothing in Section 25850 shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

Comment. Section 26035 continues former Section 12031(h) without substantive change.

See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm").

§ 26040. Hunting

26040. Nothing in Section 25850 shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting,

1 provided that the hunting at that place and time is not prohibited by the city
2 council.

3 **Comment.** Section 26040 continues former Section 12031(i) without substantive change.
4 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

5 **§ 26045. Reasonable belief of immediate, grave danger to person or property**

6 26045. (a) Nothing in Section 25850 is intended to preclude the carrying of any
7 loaded firearm, under circumstances where it would otherwise be lawful, by a
8 person who reasonably believes that any person or the property of any person is in
9 immediate, grave danger and that the carrying of the weapon is necessary for the
10 preservation of that person or property.

11 (b) A violation of Section 25850 is justifiable when a person who possesses a
12 firearm reasonably believes that person is in grave danger because of
13 circumstances forming the basis of a current restraining order issued by a court
14 against another person who has been found to pose a threat to the life or safety of
15 the person who possesses the firearm. This paragraph may not apply when the
16 circumstances involve a mutual restraining order issued pursuant to Division 10
17 (commencing with Section 6200) of the Family Code absent a factual finding of a
18 specific threat to the person’s life or safety. It is not the intent of the Legislature to
19 limit, restrict, or narrow the application of current statutory or judicial authority to
20 apply this or other justifications to a defendant charged with violating Section
21 25400 or committing another similar offense. Upon trial for violating Section
22 25850, the trier of fact shall determine whether the defendant was acting out of a
23 reasonable belief that the defendant was in grave danger.

24 (c) As used in this section, “immediate” means the brief interval before and after
25 the local law enforcement agency, when reasonably possible, has been notified of
26 the danger and before the arrival of its assistance.

27 **Comment.** Subdivision (a) of Section 26045 continues the first sentence of former Section
28 12031(j)(1) without substantive change.

29 Subdivision (b) continues former Section 12031(j)(2) without substantive change.

30 Subdivision (c) continues the second sentence of former Section 12031(j)(1) without
31 substantive change.

32 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

33 **§ 26050. Making lawful arrest**

34 26050. Nothing in Section 25850 is intended to preclude the carrying of a loaded
35 firearm by any person while engaged in the act of making or attempting to make a
36 lawful arrest.

37 **Comment.** Section 26050 continues former Section 12031(k) without substantive change.

38 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

39 **§ 26055. Place of residence, including campsite**

40 26055. Nothing in Section 25850 shall prevent any person from having a loaded
41 weapon, if it is otherwise lawful, at the person’s place of residence, including any
42 temporary residence or campsite.

1 **Comment.** Section 26055 continues former Section 12031(l) without substantive change.
2 See Section 16840 (“loaded” and “loaded firearm”).

3 **§ 26060. Rocket or other emergency or distress signaling device**

4 26060. Nothing in Section 25850 shall prevent any person from storing aboard
5 any vessel or aircraft any loaded or unloaded rocket, rocket propelled projectile
6 launcher, or similar device designed primarily for emergency or distress signaling
7 purposes, or from possessing that type of a device while in a permitted hunting
8 area or traveling to or from a permitted hunting area and carrying a valid
9 California permit or license to hunt.

10 **Comment.** Section 26060 continues former Section 12031.1 without substantive change.

11 Article 5. Loaded Firearm in Motor Vehicle

12 **§ 26100. Loaded firearm in motor vehicle**

13 26100. (a) It is a misdemeanor for a driver of any motor vehicle or the owner of
14 any motor vehicle, whether or not the owner of the vehicle is occupying the
15 vehicle, knowingly to permit any other person to carry into or bring into the
16 vehicle a firearm in violation of Section 25850 of this code or Section 2006 of the
17 Fish and Game Code.

18 (b) Any driver or owner of any vehicle, whether or not the owner of the vehicle
19 is occupying the vehicle, who knowingly permits any other person to discharge
20 any firearm from the vehicle is punishable by imprisonment in the county jail for
21 not more than one year or in state prison for 16 months or two or three years.

22 (c) Any person who willfully and maliciously discharges a firearm from a motor
23 vehicle at another person other than an occupant of a motor vehicle is guilty of a
24 felony punishable by imprisonment in state prison for three, five, or seven years.

25 (d) Except as provided in Section 3002 of the Fish and Game Code, any person
26 who willfully and maliciously discharges a firearm from a motor vehicle is guilty
27 of a public offense punishable by imprisonment in the county jail for not more
28 than one year or in the state prison.

29 **Comment.** Section 26100 continues former Section 12034 without substantive change.
30 See Section 16520 (“firearm”).

31 CHAPTER 4. LICENSE TO CARRY PISTOL, REVOLVER, OR OTHER FIREARM
32 CAPABLE OF BEING CONCEALED UPON THE PERSON

33 **§ 26150. Issuance of license by sheriff**

34 26150. (a) When a person applies for a license to carry a pistol, revolver, or
35 other firearm capable of being concealed upon the person, the sheriff of a county
36 may issue a license to that person upon proof of all of the following:

37 (1) The applicant is of good moral character.

38 (2) Good cause exists for issuance of the license.

(3) The applicant is a resident of the county or a city within the county, or the applicant's principal place of employment or business is in the county or a city within the county and the applicant spends a substantial period of time in that place of employment or business.

(4) The applicant has completed a course of training as described in Section 26165.

(b) The sheriff may issue a license under subdivision (a) in either of the following formats:

(1) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Where the population of the county is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

Comment. Section 26150 continues former Section 12050(a)(1)(A) & (D) without substantive change.

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 17020 ("principal place of employment or business").

§ 26155. Issuance of license by head of municipal police department

26155. (a) When a person applies for a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person, the chief or other head of a municipal police department of any city or city and county may issue a license to that person upon proof of all of the following:

(1) The applicant is of good moral character.

(2) Good cause exists for issuance of the license.

(3) The applicant is a resident of that city.

(4) The applicant has completed a course of training as described in Section 26165.

(b) The chief or other head of a municipal police department may issue a license under subdivision (a) in either of the following formats:

(1) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Where the population of the county in which the city is located is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) Nothing in this chapter shall preclude the chief or other head of a municipal police department of any city from entering an agreement with the sheriff of the county in which the city is located for the sheriff to process all applications for licenses, renewals of licenses, and amendments to licenses, pursuant to this chapter.

Comment. Subdivisions (a) and (b) of Section 26155 continue former Section 12050(a)(1)(B) without substantive change.

1 Subdivision (c) continues former Section 12050(g) without substantive change.
2 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
3 “pistol,” and “revolver”).

4 **§ 26160. Written policy**

5 26160. Each licensing authority shall publish and make available a written
6 policy summarizing the provisions of Section 26150 and subdivisions (a) and (b)
7 of Section 26155.

8 **Comment.** Section 26160 continues former Section 12050.2 without substantive change.

9 **§ 26165. Training course**

10 26165. (a) For new license applicants, the course of training for issuance of a
11 license under Section 26150 or 26155 may be any course acceptable to the
12 licensing authority, shall not exceed 16 hours, and shall include instruction on at
13 least firearm safety and the law regarding the permissible use of a firearm.

14 (b) Notwithstanding subdivision (a), the licensing authority may require a
15 community college course certified by the Commission on Peace Officer
16 Standards and Training, up to a maximum of 24 hours, but only if required
17 uniformly of all license applicants without exception.

18 (c) For license renewal applicants, the course of training may be any course
19 acceptable to the licensing authority, shall be no less than four hours, and shall
20 include instruction on at least firearm safety and the law regarding the permissible
21 use of a firearm. No course of training shall be required for any person certified by
22 the licensing authority as a trainer for purposes of this section, in order for that
23 person to renew a license issued pursuant to this article.

24 **Comment.** Section 26165 continues former Section 12050(a)(1)(E) without substantive
25 change.

26 See Section 16520 (“firearm”).

27 **§ 26170. Issuance of license to person deputized or appointed as peace officer**

28 26170. (a) Upon proof of all of the following, the sheriff of a county, or the
29 chief or other head of a municipal police department of any city or city and
30 county, may issue to an applicant a license to carry concealed a pistol, revolver, or
31 other firearm capable of being concealed upon the person:

32 (1) The applicant is of good moral character.

33 (2) Good cause exists for issuance of the license.

34 (3) The applicant has been deputized or appointed as a peace officer pursuant to
35 subdivision (a) or (b) of Section 830.6 by that sheriff or that chief of police or
36 other head of a municipal police department.

37 (b) Direct or indirect fees for the issuance of a license pursuant to this section
38 may be waived.

39 (c) The fact that an applicant for a license to carry a pistol, revolver, or other
40 firearm capable of being concealed upon the person has been deputized or
41 appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6

1 shall be considered only for the purpose of issuing a license pursuant to this
2 section, and shall not be considered for the purpose of issuing a license pursuant to
3 Section 26150 or 26155.

4 **Comment.** Section 26170 continues former Section 12050(a)(1)(C) without substantive
5 change.

6 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
7 “pistol,” and “revolver”).

8 **§ 26175. License application**

9 26175. (a)(1) Applications for licenses, applications for amendments to licenses,
10 amendments to licenses, and licenses under this article shall be uniform
11 throughout the state, upon forms to be prescribed by the Attorney General.

12 (2) The Attorney General shall convene a committee composed of one
13 representative of the California State Sheriffs’ Association, one representative of
14 the California Police Chiefs’ Association, and one representative of the
15 Department of Justice to review, and as deemed appropriate, revise the standard
16 application form for licenses. The committee shall meet for this purpose if two of
17 the committee’s members deem that necessary.

18 (b) The application shall include a section summarizing the statutory provisions
19 of state law that result in the automatic denial of a license.

20 (c) The standard application form for licenses described in subdivision (a) shall
21 require information from the applicant including, but not limited to, the name,
22 occupation, residence and business address of the applicant, the applicant’s age,
23 height, weight, color of eyes and hair, and reason for desiring a license to carry the
24 weapon.

25 (d) Applications for licenses shall be filed in writing, and signed by the
26 applicant.

27 (e) Applications for amendments to licenses shall be filed in writing and signed
28 by the applicant, and shall state what type of amendment is sought pursuant to
29 Section 26215 and the reason for desiring the amendment.

30 (f) The forms shall contain a provision whereby the applicant attests to the truth
31 of statements contained in the application.

32 (g) An applicant shall not be required to complete any additional application or
33 form for a license, or to provide any information other than that necessary to
34 complete the standard application form described in subdivision (a), except to
35 clarify or interpret information provided by the applicant on the standard
36 application form.

37 (h) The standard application form described in subdivision (a) is deemed to be a
38 local form expressly exempt from the requirements of the Administrative
39 Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of
40 Division 3 of Title 2 of the Government Code.

41 (i) Any license issued upon the application shall set forth the licensee’s name,
42 occupation, residence and business address, the licensee’s age, height, weight,
43 color of eyes and hair, and the reason for desiring a license to carry the weapon,

1 and shall, in addition, contain a description of the weapon or weapons authorized
2 to be carried, giving the name of the manufacturer, the serial number, and the
3 caliber. The license issued to the licensee may be laminated.

4 **Comment.** Subdivision (a) of Section 26175 continues the first, second, and third sentences of
5 former Section 12051(a)(3)(A) without substantive change.

6 Subdivision (b) continues the fourth sentence of former Section 12051(a)(3)(A) without
7 substantive change.

8 Subdivision (c) continues the first sentence of former Section 12051(a)(1) without substantive
9 change.

10 Subdivision (d) continues the second sentence of former Section 12051(a)(1) without
11 substantive change.

12 Subdivision (e) continues former Section 12051(a)(2) without substantive change.

13 Subdivision (f) continues former Section 12051(a)(3)(B) without substantive change.

14 Subdivision (g) continues former Section 12051(a)(3)(C) without substantive change.

15 Subdivision (h) continues former Section 12051(a)(3)(D) without substantive change.

16 Subdivision (i) continues the third and fourth sentences of former Section 12051(a)(1) without
17 substantive change.

18 **§ 26180. False statement on application form**

19 26180. (a) Any person who files an application required by Section 26175
20 knowing that any statement contained therein is false is guilty of a misdemeanor.

21 (b) Any person who knowingly makes a false statement on the application
22 regarding any of the following is guilty of a felony:

23 (1) The denial or revocation of a license, or the denial of an amendment to a
24 license, issued pursuant to this article.

25 (2) A criminal conviction.

26 (3) A finding of not guilty by reason of insanity.

27 (4) The use of a controlled substance.

28 (5) A dishonorable discharge from military service.

29 (6) A commitment to a mental institution.

30 (7) A renunciation of United States citizenship.

31 **Comment.** Subdivision (a) of Section 26180 continues former Section 12051(b) without
32 substantive change.

33 Subdivision (b) continues former Section 12051(c) without substantive change.

34 **§ 26185. Fingerprinting and Department of Justice report**

35 26185. (a)(1) The fingerprints of each applicant shall be taken and two copies on
36 forms prescribed by the Department of Justice shall be forwarded to the
37 department.

38 (2) Upon receipt of the fingerprints and the fee as prescribed in Section 26190,
39 the department shall promptly furnish the forwarding licensing authority a report
40 of all data and information pertaining to any applicant of which there is a record in
41 its office, including information as to whether the person is prohibited under
42 [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare
43 and Institutions Code from possessing, receiving, owning, or purchasing a firearm.

1 (3) No license shall be issued by any licensing authority until after receipt of the
2 report from the department.

3 (b) Notwithstanding subdivision (a), if the license applicant has previously
4 applied to the same licensing authority for a license to carry firearms pursuant to
5 this article and the applicant's fingerprints and fee have been previously forwarded
6 to the Department of Justice, as provided by this section, the licensing authority
7 shall note the previous identification numbers and other data that would provide
8 positive identification in the files of the Department of Justice on the copy of any
9 subsequent license submitted to the department in conformance with Section
10 26225 and no additional application form or fingerprints shall be required.

11 (c) If the license applicant has a license issued pursuant to this article and the
12 applicant's fingerprints have been previously forwarded to the Department of
13 Justice, as provided in this section, the licensing authority shall note the previous
14 identification numbers and other data that would provide positive identification in
15 the files of the Department of Justice on the copy of any subsequent license
16 submitted to the department in conformance with Section 26225 and no additional
17 fingerprints shall be required.

18 **Comment.** Section 26185 continues former Section 12052 without substantive change.
19 See Section 16520 ("firearm").

20 § 26190. Application fees

21 26190. (a)(1) Each applicant for a new license or for the renewal of a license
22 shall pay at the time of filing the application a fee determined by the Department
23 of Justice. The fee shall not exceed the application processing costs of the
24 Department of Justice for the direct costs of furnishing the report required by
25 Section 26185.

26 (2) After the department establishes fees sufficient to reimburse the department
27 for processing costs, fees charged shall increase at a rate not to exceed the
28 legislatively approved annual cost-of-living adjustments for the department's
29 budget.

30 (3) The officer receiving the application and the fee shall transmit the fee, with
31 the fingerprints if required, to the Department of Justice.

32 (b)(1) The licensing authority of any city, city and county, or county may charge
33 an additional fee in an amount equal to the actual costs for processing the
34 application for a new license, excluding fingerprint and training costs, but in no
35 case to exceed one hundred dollars (\$100), and shall transmit the additional fee, if
36 any, to the city, city and county, or county treasury.

37 (2) The first 20 percent of this additional local fee may be collected upon filing
38 of the initial application. The balance of the fee shall be collected only upon
39 issuance of the license.

40 (c) The licensing authority may charge an additional fee, not to exceed twenty-
41 five dollars (\$25), for processing the application for a license renewal, and shall
42 transmit an additional fee, if any, to the city, city and county, or county treasury.

1 (d) These local fees may be increased at a rate not to exceed any increase in the
2 California Consumer Price Index as compiled and reported by the California
3 Department of Industrial Relations.

4 (e)(1) In the case of an amended license pursuant to Section 26215, the licensing
5 authority of any city, city and county, or county may charge a fee, not to exceed
6 ten dollars (\$10), for processing the amended license.

7 (2) This fee may be increased at a rate not to exceed any increase in the
8 California Consumer Price Index as compiled and reported by the California
9 Department of Industrial Relations.

10 (3) The licensing authority shall transmit the fee to the city, city and county, or
11 county treasury.

12 (f)(1) If psychological testing on the initial application is required by the
13 licensing authority, the license applicant shall be referred to a licensed
14 psychologist used by the licensing authority for the psychological testing of its
15 own employees. The applicant may be charged for the actual cost of the testing in
16 an amount not to exceed one hundred fifty dollars (\$150).

17 (2) Additional psychological testing of an applicant seeking license renewal
18 shall be required only if there is compelling evidence to indicate that a test is
19 necessary. The cost to the applicant for this additional testing shall not exceed one
20 hundred fifty dollars (\$150).

21 (g) Except as authorized pursuant to this section, no requirement, charge,
22 assessment, fee, or condition that requires the payment of any additional funds by
23 the applicant may be imposed by any licensing authority as a condition of the
24 application for a license.

25 **Comment.** Subdivision (a) of Section 26190 continues the first, second, and third sentences of
26 the first paragraph of former Section 12054(a) without substantive change.

27 Subdivision (b) continues the fourth, fifth, and sixth sentences of the first paragraph of former
28 Section 12054(a) without substantive change.

29 Subdivision (c) continues the first sentence of the second paragraph of former Section 12054(a)
30 without substantive change.

31 Subdivision (d) continues the second sentence of the second paragraph of former Section
32 12054(a) without substantive change.

33 Subdivision (e) continues former Section 12054(b) without substantive change.

34 Subdivision (f) continues former Section 12054(c) without substantive change.

35 Subdivision (g) continues former Section 12054(d) without substantive change.

36 **§ 26195. No license for person in prohibited class**

37 26195. (a) A license under this article shall not be issued if the Department of
38 Justice determines that the person is within a prohibited class described in [Section
39 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare and
40 Institutions Code.

41 (b)(1) A license under this article shall be revoked by the local licensing
42 authority if at any time either the local licensing authority is notified by the
43 Department of Justice that a licensee is within a prohibited class described in
44 [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare

1 and Institutions Code, or the local licensing authority determines that the person is
2 within a prohibited class described in [Section 12021 or 12021.1 of this code] or
3 Section 8100 or 8103 of the Welfare and Institutions Code.

4 (2) If at any time the Department of Justice determines that a licensee is within a
5 prohibited class described in [Section 12021 or 12021.1 of this code] or Section
6 8100 or 8103 of the Welfare and Institutions Code, the department shall
7 immediately notify the local licensing authority of the determination.

8 (3) If the local licensing authority revokes the license, the Department of Justice
9 shall be notified of the revocation pursuant to Section 26225. The licensee shall
10 also be immediately notified of the revocation in writing.

11 **Comment.** Subdivision (a) of Section 26195 continues former Section 12050(d) without
12 substantive change.

13 Subdivision (b) continues former Section 12050(e) without substantive change.

14 § 26200. Restrictions or conditions on license

15 26200. (a) A license issued pursuant to this article may include any reasonable
16 restrictions or conditions that the issuing authority deems warranted, including
17 restrictions as to the time, place, manner, and circumstances under which the
18 licensee may carry a pistol, revolver, or other firearm capable of being concealed
19 upon the person.

20 (b) Any restrictions imposed pursuant to subdivision (a) shall be indicated on
21 any license issued.

22 **Comment.** Subdivision (a) of Section 26200 continues former Section 12050(b) without
23 substantive change.

24 Subdivision (b) continues former Section 12050(c) without substantive change.

25 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
26 “revolver”).

27 § 26205. Notification of applicant

28 26205. The licensing authority shall give written notice to the applicant
29 indicating if the license under this article is approved or denied. The licensing
30 authority shall give this notice within 90 days of the initial application for a new
31 license or a license renewal, or 30 days after receipt of the applicant’s criminal
32 background check from the Department of Justice, whichever is later.

33 **Comment.** Section 26205 continues former Section 12052.5 without substantive change.

34 § 26210. Change of licensee’s address

35 26210. (a) When a licensee under this article has a change of address, the license
36 shall be amended to reflect the new address and a new license shall be issued
37 pursuant to subdivision (b) of Section 26215.

38 (b) The licensee shall notify the licensing authority in writing within 10 days of
39 any change in the licensee’s place of residence.

40 (c) If the license is one to carry concealed a pistol, revolver, or other firearm
41 capable of being concealed upon the person, then it may not be revoked solely

1 because the licensee changes his or her place of residence to another county if the
2 licensee has not breached any conditions or restrictions set forth in the license or
3 has not fallen into a prohibited class described in [Section 12021 or 12021.1 of
4 this code] or Section 8100 or 8103 of the Welfare and Institutions Code. However,
5 any license issued pursuant to Section 26150 or 26155 shall expire 90 days after
6 the licensee moves from the county of issuance if the licensee's place of residence
7 was the basis for issuance of the license.

8 (d) If the license is one to carry loaded and exposed a pistol, revolver, or other
9 firearm capable of being concealed upon the person, the license shall be revoked
10 immediately upon a change of the licensee's place of residence to another county.

11 **Comment.** Subdivision (a) of Section 26210 continues former Section 12050(f)(2) without
12 substantive change.

13 Subdivision (b) continues former Section 12050(f)(4)(A) without substantive change.

14 Subdivision (c) continues former Section 12050(f)(4)(B) without substantive change.

15 Subdivision (d) continues former Section 12050(f)(4)(C) without substantive change.

16 See Section 16530 ("firearm capable of being concealed upon the person," "pistol," and
17 "revolver").

18 § 26215. Amendment of license

19 26215. (a) A person issued a license pursuant to this article may apply to the
20 licensing authority for an amendment to the license to do one or more of the
21 following:

22 (1) Add or delete authority to carry a particular pistol, revolver, or other firearm
23 capable of being concealed upon the person.

24 (2) Authorize the licensee to carry concealed a pistol, revolver, or other firearm
25 capable of being concealed upon the person.

26 (3) If the population of the county is less than 200,000 persons according to the
27 most recent federal decennial census, authorize the licensee to carry loaded and
28 exposed in that county a pistol, revolver, or other firearm capable of being
29 concealed upon the person.

30 (4) Change any restrictions or conditions on the license, including restrictions as
31 to the time, place, manner, and circumstances under which the person may carry a
32 pistol, revolver, or other firearm capable of being concealed upon the person.

33 (b) If the licensing authority amends the license, a new license shall be issued to
34 the licensee reflecting the amendments.

35 (c) An amendment to the license does not extend the original expiration date of
36 the license and the license shall be subject to renewal at the same time as if the
37 license had not been amended.

38 (d) An application to amend a license does not constitute an application for
39 renewal of the license.

40 **Comment.** Subdivision (a) of Section 26215 continues former Section 12050(f)(1) without
41 substantive change.

42 Subdivision (b) continues former Section 12050(f)(3) without substantive change.

43 Subdivision (c) continues former Section 12050(f)(5) without substantive change.

44 Subdivision (d) continues former Section 12050(f)(6) without substantive change.

1 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
2 “revolver”).

3 **§ 26220. Duration of license**

4 26220. (a) Except as otherwise provided in this section and in subdivision (c) of
5 Section 26210, a license issued pursuant to Section 26150 or 26155 is valid for
6 any period of time not to exceed two years from the date of the license.

7 (b) If the licensee’s place of employment or business was the basis for issuance
8 of a license pursuant to Section 26150, the license is valid for any period of time
9 not to exceed 90 days from the date of the license. The license shall be valid only
10 in the county in which the license was originally issued. The licensee shall give a
11 copy of this license to the licensing authority of the city, county, or city and
12 county in which the licensee resides. The licensing authority that originally issued
13 the license shall inform the licensee verbally and in writing in at least 16-point
14 type of this obligation to give a copy of the license to the licensing authority of the
15 city, county, or city and county of residence. Any application to renew or extend
16 the validity of, or reissue, the license may be granted only upon the concurrence of
17 the licensing authority that originally issued the license and the licensing authority
18 of the city, county, or city and county in which the licensee resides.

19 (c) A license issued pursuant to Section 26150 or 26155 is valid for any period
20 of time not to exceed three years from the date of the license if the license is
21 issued to any of the following individuals:

22 (1) A judge of a California court of record.

23 (2) A full-time court commissioner of a California court of record.

24 (3) A judge of a federal court.

25 (4) A magistrate of a federal court.

26 (d) A license issued pursuant to Section 26150 or 26155 is valid for any period
27 of time not to exceed four years from the date of the license if the license is issued
28 to a custodial officer who is an employee of the sheriff as provided in Section
29 831.5, except that the license shall be invalid upon the conclusion of the person’s
30 employment pursuant to Section 831.5 if the four-year period has not otherwise
31 expired or any other condition imposed pursuant to this article does not limit the
32 validity of the license to a shorter time period.

33 (e) A license issued pursuant to Section 26170 to a peace officer appointed
34 pursuant to Section 830.6 is valid for any period of time not to exceed four years
35 from the date of the license, except that the license shall be invalid upon the
36 conclusion of the person’s appointment pursuant to Section 830.6 if the four-year
37 period has not otherwise expired or any other condition imposed pursuant to this
38 article does not limit the validity of the license to a shorter time period.

39 **Comment.** Subdivision (a) of Section 26220 continues former Section 12050(a)(2)(A)(i)
40 without substantive change.

41 Subdivision (b) continues former Section 12050(a)(2)(A)(ii) without substantive change.

42 Subdivision (c) continues former Section 12050(a)(2)(C) without substantive change.

43 Subdivision (d) continues former Section 12050(a)(2)(D) without substantive change.

44 Subdivision (e) continues former Section 12050(a)(2)(B) without substantive change.

1 **§ 26225. Duties of licensing authority and Attorney General**

2 26225. (a) A record of the following shall be maintained in the office of the
3 licensing authority:

- 4 (1) The denial of a license.
- 5 (2) The denial of an amendment to a license.
- 6 (3) The issuance of a license.
- 7 (4) The amendment of a license.
- 8 (5) The revocation of a license.

9 (b) Copies of each of the following shall be filed immediately by the issuing
10 officer or authority with the Department of Justice:

- 11 (1) The denial of a license.
- 12 (2) The denial of an amendment to a license.
- 13 (3) The issuance of a license.
- 14 (4) The amendment of a license.
- 15 (5) The revocation of a license.

16 (c)(1) Commencing on or before January 1, 2000, and annually thereafter, each
17 licensing authority shall submit to the Attorney General the total number of
18 licenses issued to peace officers pursuant to Section 26170, and to judges pursuant
19 to Section 26150 or 26155.

20 (2) The Attorney General shall collect and record the information submitted
21 pursuant to this subdivision by county and licensing authority.

22 **Comment.** Section 26225 continues former Section 12053 without substantive change.

23 CHAPTER 5. RETIRED PEACE OFFICER CARRYING
24 CONCEALED AND LOADED FIREARM

25 **§ 26300. Requirements for retired peace officer to carry concealed and loaded firearm**

26 26300. (a) Any peace officer listed in Section 830.1 or 830.2 or subdivision (c)
27 of Section 830.5 who retired prior to January 1, 1981, is authorized to carry a
28 concealed and loaded firearm if the agency issued the officer an identification
29 certificate and the certificate has not been stamped as specified in Section 25470.

30 (b) Any peace officer employed by an agency and listed in Section 830.1 or
31 830.2 or subdivision (c) of Section 830.5 who retired after January 1, 1981, shall
32 have an endorsement on the officer's identification certificate stating that the
33 issuing agency approves the officer's carrying of a concealed and loaded firearm.

34 (c) Any peace officer not listed in subdivision (a) or (b) who was authorized to,
35 and did, carry a firearm during the course and scope of employment as a peace
36 officer shall have an endorsement on the officer's identification certificate stating
37 that the issuing agency approves the officer's carrying of a concealed and loaded
38 firearm.

39 **Comment.** Subdivision (a) of Section 26300 continues former Section 12027.1(a)(1)(A)(ii)
40 without substantive change.

41 Subdivision (b) continues former Section 12027.1(a)(1)(A)(i) without substantive change.

1 Subdivision (c) continues former Section 12027.1(a)(1)(A)(iii) without substantive change.
2 Section 26300 and the other provisions in this article provide guidance on a retired peace
3 officer carrying a concealed and loaded firearm. For guidance on a retired peace officer carrying a
4 concealed firearm, see Sections 25450-25475. For guidance on a retired peace officer carrying a
5 loaded firearm, see Sections 25900-25925.

6 See Section 16520 ("firearm").

7 **§ 26305. Grounds for revocation or denial of privilege to carry concealed and loaded**
8 **firearm**

9 26305. (a) No peace officer who is retired after January 1, 1989, because of a
10 psychological disability shall be issued an endorsement to carry a concealed and
11 loaded firearm pursuant to this article.

12 (b) A retired peace officer may have the privilege to carry a concealed and
13 loaded firearm revoked or denied by violating any departmental rule, or state or
14 federal law that, if violated by an officer on active duty, would result in that
15 officer's arrest, suspension, or removal from the agency.

16 (c) An identification certificate authorizing the officer to carry a concealed and
17 loaded firearm or an endorsement may be revoked or denied by the issuing agency
18 only upon a showing of good cause. Good cause shall be determined at a hearing,
19 as specified in Section 26320.

20 **Comment.** Subdivision (a) of Section 26305 continues former Section 12027.1(e) without
21 substantive change.

22 Subdivision (b) continues former Section 12027.1(a)(2) without substantive change.

23 Subdivision (c) continues former Section 12027.1(a)(1)(B) & (b)(1) without substantive
24 change.

25 See Section 16520 ("firearm").

26 **§ 26310. Procedure for denial of privilege to carry concealed and loaded firearm**

27 26310. (a) An identification certificate authorizing the officer to carry a
28 concealed and loaded firearm or an endorsement may be denied prior to a hearing.

29 (b) If a hearing is not conducted prior to the denial of an endorsement, a retired
30 peace officer, within 15 days of the denial, shall have the right to request a
31 hearing. A retired peace officer who fails to request a hearing pursuant to this
32 section shall forfeit the right to a hearing.

33 **Comment.** Section 26310 continues former Section 12027.1(b)(3) without substantive change.

34 See Section 16520 ("firearm").

35 **§ 26315. Procedure for revocation of privilege to carry concealed and loaded firearm**

36 26315. (a) An identification certificate authorizing the officer to carry a
37 concealed and loaded firearm or an endorsement may be revoked only after a
38 hearing, as specified in Section 26320.

39 (b) Any retired peace officer whose identification certificate authorizing the
40 officer to carry a concealed and loaded firearm or an endorsement is to be revoked
41 shall receive notice of the hearing. Notice of the hearing shall be served either
42 personally on the retiree or sent by first-class mail, postage prepaid, return receipt
43 requested to the retiree's last known place of residence.

1 (c) Upon the date the agency receives the signed registered receipt or upon the
2 date the notice is served personally on the retiree, the retiree shall have 15 days to
3 respond to the notification. A retired peace officer who fails to respond to the
4 notice of the hearing shall forfeit the right to respond.

5 **Comment.** Section 26315 continues former Section 12027.1(b)(2) without substantive change.
6 See Section 16520 (“firearm”).

7 **§ 26320. Hearing**

8 26320. (a) Any hearing conducted under this article shall be held before a three-
9 member hearing board. One member of the board shall be selected by the agency
10 and one member shall be selected by the retired peace officer or his or her
11 employee organization. The third member shall be selected jointly by the agency
12 and the retired peace officer or his or her employee organization.

13 (b) Any decision by the board shall be binding on the agency and the retired
14 peace officer.

15 **Comment.** Section 26320 continues former Section 12027.1(d) without substantive change.

16 **§ 26325. Procedure when privilege to carry concealed and loaded firearm is revoked**

17 26325. (a) A retired peace officer, when notified of the revocation of the
18 privilege to carry a concealed and loaded firearm, after the hearing, or upon
19 forfeiting the right to a hearing, shall immediately surrender to the issuing agency
20 the officer’s identification certificate.

21 (b) The issuing agency shall reissue a new identification certificate without an
22 endorsement.

23 (c) Notwithstanding subdivision (b), if the peace officer retired prior to January
24 1, 1981, and was at the time of retirement a peace officer listed in Section 830.1 or
25 830.2 or subdivision (c) of Section 830.5, the issuing agency shall stamp on the
26 identification certificate “No CCW privilege.”

27 **Comment.** Section 26325 continues former Section 12027.1(c) without substantive change.
28 See Sections 16360 (“CCW”), 16520 (“firearm”).

29 **UNCODIFIED**

30 **Operative date**

31 SEC. _____. This act becomes operative on _____.
